



REVISED RECORD
OF THE
CONSTITUTIONAL CONVENTION

OF THE
STATE OF NEW YORK
APRIL SIXTH TO SEPTEMBER TENTH

1915

VOLUME I



ALBANY
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1874

CONSTITUTIONAL CONVENTION

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OFFICE OF THE CLERK OF THE SENATE

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CONSTITUTIONAL CONVENTION

ASSEMBLY CHAMBER—THE CAPITOL

ALBANY, N. Y., APRIL 6, 1915

Assembly Speaker Sweet — All persons except members of the Convention and press representatives, and those occupying chairs along the brass rail, will retire back of the railing. No one will be permitted to stand in front of the brass rail except delegates. The Sergeant-at-Arms will see that all those standing in front of the brass rail who are not delegates to the Convention retire back of the rail.

Secretary of State Hugo — The Convention will be in order. Prayer will be offered by the Rev. Dr. Hopkins.

Dr. Hopkins — Almighty and everlasting God, clothed in holiness, abundant in compassion, full of grace and truth, accept our thanksgiving, we pray Thee, for daily benefits, for gifts that crown the year, for Thy light and Thy truth sent out abroad and for Thy wondrous dealings with this beloved land, so great in beginnings and so rich in promise. Send down, we beseech Thee, upon this Convention, gathered in such high purpose and weighted with such responsibilities, the spirit of wisdom, concord, purity and justice, that, all evil influences and false counsels being absent, these servants of the people may be guided ever in the ways of godly reverence and wise and unselfish service.

Bless with Thy favor whatsoever may be enacted here, that at length it may make its contribution to the honor and welfare of the Commonwealth, and the righteousness, peace and prosperity of the nation, and thus may redound to the glory of Thy great Name. Amen.

The Secretary of State — Gentlemen of the Constitutional Convention, ladies and gentlemen, the Constitution of the State of New York provides for its own amendment and the statutes prescribe the details and the method of this amendment. Pursuant, therefore, to statutory provision, it is my duty to call together the

several Constitutional Convention delegates of the State of New York. It is also my pleasant privilege, on behalf of Governor Whitman and the entire State administration, to extend to you a most cordial welcome to the scenes of your activities for the next few months.

This is an extraordinary Convention. The people of the State of New York in the exercise of their sovereign will have selected you as their representatives to suggest their Constitution.

Theories of government are now being tested on the battlefields of Europe. In the State of New York we test our theories in open debate, in representative assemblies such as this.

Gentlemen of the Convention, it is your high privilege to interpret the spirit, experience, hopes and aspirations of eleven millions of people and to write that interpretation into a proposed Constitution which, if adopted by the people of the State, will prescribe and regulate their activities as an organized State for the next twenty years.

Of all the constitutions which a people make for themselves, the best is that which is written with a close hold on the past but which, with prophetic vision, prepares the way for appropriating the lessons of a progressive future. Under such a constitution, embodying the essential excellencies harmonizing conservative and progressive principles, the one becoming the complement of the other, steadily, consciously and safely molding this instrument to greater perfection.

I thank you.

To avoid calling the roll twice I will swear in the members in groups of fifteen, and, gentlemen, as your names are called, will you please present yourselves at the table? After the roll has been completed we shall be able then to determine who is present and who is absent.

The Deputy Secretary of State will commence calling the roll, beginning with the delegates-at-large, and when we have called the names of the delegates-at-large they will kindly come forward, we will swear them in and after that distribute the delegates in groups of fifteen.

The oath was duly administered.

The Secretary of State — All of the delegates are present with the exception of five — 163 delegates are present.

Now we will call the roll again on those five, and if any or all of those gentlemen are present will they kindly come forward and it will make the roll complete.

Deputy Secretary of State — Moses J. Wafer, excused on account of sickness.

Mr. Brackett — I ask that it may be entered upon the record of the Convention that Mr. V. M. Allen is excused because of

temporary ill-health. He expects to be present on the adjourned date when the Convention shall meet again, but it is impossible that he be here to-day, and I therefore ask that his excuse be entered and that he be so excused.

The Secretary of State — The excuse will be so entered.

Secretary of State — All of the delegates are present except four.

Mr. Wadsworth — Mr. Secretary, I offer the following resolution.

Secretary of State — Before offering this resolution I have an announcement to make: The committee or commission appointed by the Legislature to provide materials, books, etc., for the Convention, has made its report, also a committee consisting of the Attorney-General, the Comptroller and Secretary of State to make a book for your purposes here, have reported, and we are going to present to each one of the delegates a manual, a copy of the Constitution and a Legislative Manual, in addition to the books already sent to you. In addition to that we have a box of stationery, letter-heads and envelopes, and all of these supplies are now in the office of the Secretary of State, and you will receive them there on application. If you do not want to bother with them, if you will give us your address we will see that they are sent to you at your homes.

The Secretary will read the resolution.

Deputy Secretary of State — By Mr. Wadsworth: Resolved, That the Convention proceed to elect a president, upon call of the roll each member rising in his place as his name is called and stating his choice.

The Secretary of State — It is moved by Mr. Wadsworth that the Convention proceed to elect a president on call of the roll, each member rising in his place as the roll is called and stating his choice. All in favor of the motion say Aye, those opposed No.

The motion is carried.

Mr. Low — Mr. Secretary of State and gentlemen of the Convention.

This Convention is assembled here in response to the mandate of the people of the State of New York acting in their sovereign capacity. They have charged us with the duty of restudying the fundamental law of the State and of submitting to them such a revision thereof or such amendments thereto as this Convention may determine. No more delicate nor more responsible duty could be laid upon any body of citizens.

In order that this duty may be discharged with greatest advantage to the Commonwealth it is necessary that the President of the Convention should be a man well equipped to discharge the

duties of that distinguished position. He should be well versed in parliamentary procedure; he should be a man of large experience and of wide outlook, and above all he should bring to the duties of that position not the spirit of the partisan but the tried and steady temper of the statesman.

Happily there is in the membership of this Convention a man who meets ideally all the demands of this office. Born in the country districts of the State and bred there, he received his professional education in the greatest city of the State of which he has since been a resident. He therefore knows by experience the conditions that affect the rural part of our Commonwealth and the urban part of it, and the experiences of his life have given to him a statewide acquaintanceship.

He was a member of the Constitutional Convention of 1894 and one of the floor leaders, so that he has had experience in the precise field in which this Convention is to do its work.

But that is not all: For the last sixteen years he has been a conspicuous servant of the American people and of the State of New York in national affairs. For five years he was Secretary of War. Now the office of Secretary of War, ordinarily is an administrative office, and upon that side of its functions this gentleman succeeded in reorganizing the army and in bringing about the creation of a general staff and the establishment of the war college. But he was Secretary of War immediately after the close of the Spanish War, so that it fell to him to issue instructions under which the Philippine Islands should be governed until action by Congress. Probably no man living has had devolved upon him a kind of work in the domain of constitutional law so novel and so important as fell to the Secretary of War of the United States of that day. At that moment the only authority on the island was derived from the military power of the President of the United States, and so it became necessary to provide what was in effect a constitution for those islands to be carried out in the first instance under the military authority of the President until the Congress could take action and give a civil basis to government there. It was a part of the problem to propose a military government which would enable a democracy like that of the United States to provide government for an untrained people under which they might grow into the stature of perfect self-government. One of the most interesting questions was to determine how the military power should yield naturally and easily and without disturbance to the civil power. This was accomplished by the novel device of separating the functions of government so as to give the civil members of the government authority in civil things and the military government of the islands authority in military things; both parts.

however, being controlled, in the first instance, by the President of the United States under the war power granted to him by our Constitution.

It is a matter of record that these instructions were so simple, so clear, so successful in their operation that the whole scheme moved on almost unnoticed, and the military control in due course gave way to civil control without our people knowing that such a thing had happened.

This gentleman, therefore, is equipped in the domain of constitution-making as not only no other man in our whole State is equipped, but, as one may say, no other man in our country, perhaps one might even say in the world at large. From his brilliant career in the office of Secretary of War he was transferred to the office of Secretary of State of the United States, wherein again he served with distinction for five years; and, it may be said with literal truth, that during those five years the United States was universally respected by all the nations of the world, universally admired and universally trusted.

While Secretary of State he made a visit to South America, and by his utterances and by his personality he did more to remove misunderstandings between the nations of that continent and the great republic of North America than had been done before; and I think it is a fact that to-day no American statesman is so highly regarded among our fellow republics of the South as the gentleman whom I shall propose for this high position.

Then the State of New York honored him by electing him Senator of this State to serve in the Senate of the United States, and during the six years of his honorable service there, which have just terminated, we know that the State of New York spoke with a voice that was heard from one end of the country to the other.

Such is the man whom I propose as President of this Constitutional Convention; a man learned in the law, not only deeply read in constitutional law but deeply versed in it and in wide fields of experience; a man of judicial temper; a man of the widest outlook; a man of whom our entire country is proud — that patriotic American citizen, Elihu Root.

Mr. Cullinan — Mr. Secretary, in behalf of the counties comprising the fifth judicial district of the State of New York, the counties of Jefferson, Lewis, Onondaga, Oneida, Herkimer and Oswego, I rise to second the nomination of Mr. Root as President of this Convention.

Mr. Root was born in the county of Oneida and cradled in those traditions which have given to our country so many great men who have been the pillars and the bulwark of sane liberty. Recalling perhaps that splendid expression of liberty on the pediment

of the courthouse at Worcester, Mass., breathing the old Massachusetts atmosphere that "obedience to law is liberty;" of great natural attainment, of ripe experience, a man who has discharged every trust, private or public, reposed in him with remarkable success and efficiency.

Canning electrified his audience in the House of Parliament in one of these dynamic debates by saying that the new world was brought into existence to redress the faults of the old.

The Pilgrim Fathers when they deliberated before they landed on the rock-bound coast, conscious of the fact that they were taking a step in advance of everything that the world had ever seen, and forecasting Canning, drew up that wonderful compact that Bancroft said was the foundation of civil liberty in the United States, and that wonderful compact contained four words that never before had been seen in the scroll of history in connection with any form of government that man had ever devised and those words were that they would found a government based upon equal and just law.

Those significant words, the foundation of civil liberty in the United States, should be inscribed upon and always underlying the proceedings of this Convention.

This Convention may be historic; we certainly are getting issues to-day and discussing them, which involve the perpetuation of republican institutions; but I fondly believe, and I believe that the majority of this Convention believes, that with such a man as Mr. Root as President of this Convention, its outcome will be shaped in such a way that this State at least will take its place and take such an attitude that it will be able successfully to resist the assaults that are now being made upon the welfare of the State, which if successful can only lead to socialism, discord and anarchy. Gentlemen, I thank you.

Mr. L. M. Martin — Mr. Secretary, I scarce can express the appreciation of the people in the home town of Elihu Root, but I wish to convey to this assembly our thanks and our cordial thanks for the honor which you have conferred upon the community in which he lives.

I suppose that it is no secret that a great many people in the rural districts view with some apprehension the calling of this Constitutional Convention to tear down and rebuild the fundamental law of the State, and we come here with considerable misgiving lest in the stress and turmoil of a convention of this size the interests of perhaps the smaller communities may be somewhat neglected. I say to the gentlemen of New York and I say to the members of this Convention, that we endorse your action to-day in placing in nomination Mr. Root, the man that we know as the

eminent statesman and great Secretary of State and great Senator, and the man that we know as a neighbor and a friend. Statesmen, gentlemen, come and statesmen go, but those men whose names are immortal, those men whose names go down in history, standing forever as a bulwark of Americanism, are the men who stand well with the neighbors associated with their daily walk in life, and we who come from the rural towns and the district where he was born, where he attended school, where he graduated from the college that now owes him so much, can say to you that no matter how small our faults are in home government and home life there never has been a moment in his great career but that he was willing and able to come to us as a neighbor and a friend, and I say to all you men that in nominating him here to-day we feel perfectly sure that every interest in this great State will be protected. Not only the great cities but the great agricultural interests of the State that go to make up its wealth and independence, and so I bring to you this message from his home town, that while this great Convention honors him it also honors itself, and we are sure that you honor us, and we thank you sincerely for the great honor you have conferred upon us.

Secretary of State — Are there any further nominations? If there are no further nominations I will ask that the roll be called and that each delegate rise in his place and announce his selection. However, I will appoint as tellers to take the vote two of your members, Mr. Steinbrink of Brooklyn and Mr. A. E. Smith of New York. The gentlemen will please come forward and act as tellers. The gentlemen will rise in their places and announce their selections. The secretary will call the roll.

The call of the roll resulted as follows:

FOR ELIHU ROOT

Messrs. Adams, Aiken, Allen, F. C., Allen, V. M., Angell, Austin, Baldwin, Bannister, Barnes, Barrett, Baumes, Bayes, Beach, Bell, Berri, Betts, Blauvelt, Bockes, Brackett, Brenner, Bunce, Buxbaum, Clearwater, Clinton, Cobb, Coles, Cullinan, Curran, Deunis, Deyo, Dick, Doughty, Dow, Drummond, Dunlap, Dunmore, Dykman, Eggleston, Fancher, Fobes, Ford, Franchot, Gladding, Green, Greff, Hale, Heaton, Hinman, Johnson, Jones, Kirby, Landreth, Latson, Law, Leggett, Lennox, Lincoln, Linde, Low, Mandeville, Mann, Marshall, Martin, L. M., Mathewson, McKean, McKinney, McLean, Mealy, Meigs, Mereness, Mulry, Nicoll, C., Nicoll, D., Nixon, Nye, O'Brian, J. L., O'Brien, M. J., Olcott, Ostrander, Owen, Parker, Parmenter, Parsons, Pelletreau, Phillips, J. S., Phillips, S. K., Potter, Quigg, Reeves, Rhees, Richards, Rodenbeck, Rosch, Ryan, Ryder, Sanders, Sargent, Saxe, J. G., Saxe, M., Schurman, Sears,

Sharpe, Sheehan, Shipman, Smith, E. N., Smith, R. B., Stanchfield, Standart, Steinbrink, Stimson, Stowell, Tanner, Tierney, Tuck, Vanderlyn, VanNess, Wadsworth, Wafer, Waterman, Webber, C. A., Weber, R. E., Weed, Westwood, Wheeler, Whipple, White, C. J., Wickersham, Wiggins, Williams, Winslow, Wood, Young, C. H., Young, F. L.—133.

FOR MR. MORGAN J. O'BRIEN

Messrs. Ahearn, Bernstein, Burkan, Byrne, Dahm, Daly, Donnelly, Donovan, Dooling, Eisner, Endres, Eppig, Fogarty, Foley, Frank, Griffin, Haffen, Harawitz, Heyman, Kirk, Leary, Leitner, Martin, F., Newburger, Schoonhut, Slevin, Smith, A. E., Smith, T. F., Unger, Wagner, Ward, White, J. J.—32.

When Mr. Adams' name was called he said:

"It is with the greatest pleasure that I cast my vote for the Hon. Elihu Root."

When Mr. Mann's name was called he said:

"In order to give emphasis to the idea that this Convention is to be run on absolutely non-partisan lines, I vote for Mr. Root."

Mr. Wagner—I move that the election of Mr. Elihu Root, as President of this Convention, be made unanimous.

The Secretary of State—It is moved and seconded that the election of Mr. Root be made unanimous. All in favor say Aye. The motion is carried unanimously.

Secretary of State—Mr. Root having received the unanimous vote of all the members of this Constitutional Convention, I declare him duly elected President of this Convention and appoint Mr. Low and Mr. Wagner as a committee to escort Mr. Root to the chair.

Mr. Root was escorted to the chair by the committee.

The Secretary of State (administering oath to Mr. Root)—Do you solemnly swear that you will support the Constitution of the United States and the Constitution of the State of New York and that you will faithfully discharge the duties of President of the Constitutional Convention according to the best of your ability?

Mr. Root—I do.

Secretary of State—Members and gentlemen, it gives me pleasure to introduce to you, or rather to present to you, the President of the Constitutional Convention, the Hon. Elihu Root.

Mr. Root—Gentlemen of the Convention, I thank you for the great honor that you have conferred in making me your President, I prize very highly the confidence which it implies. The presiding officer of the Convention can accomplish nothing of value without your unselfish support, but I feel sure of having that, and with it I shall try to administer fairly the rules of parliamentary law which are based upon the experience derived through centuries of

growth in representative government. Observance of such rules is indispensable to the free, open, public discussion in representative assemblies essential to the conduct of popular government. Upon the real freedom and sincerity of our discussions and the evidences of matured judgment which we present in assigning the reasons for our conclusions will depend to a great degree the approval or rejection of our labors; for the people themselves will pass upon our work in the light of the reasons we present and our revision will receive its effect by their vote and not by ours.

The most obvious duty before us is to scrutinize attentively the framework of the State government in order to ascertain in what respect, if any, the established institutions are insufficient or ill-adapted to accomplish the ends of government. Great changes have come in the industrial and social life of the State since the last Convention. To attain the ends which every one agrees ought to be attained it appears necessary that government shall interfere to a much greater extent than in former times with the complicated and interdependent life of the people. The business which government is required to undertake has vastly increased both in magnitude and variety and there is a widespread feeling that in some respects the business of the government has outgrown the organization of government. Many thoughtful citizens consider that our system of taxation, appropriation and expenditure in moneys, which worked very well in simpler times, is now quite inadequate. Many think that the strictly municipal interests of our great cities require more protection in the way of home rule provisions than is afforded in the present Constitution. Many think that the natural resources of the State, particularly the forests and water power, should be brought under a system of conservation and utilization having the stability of a constitutional basis.

Many think that our ballot has become too complicated and unwieldy and that the real power of the voter over the affairs of government would be increased if there were fewer candidates to be voted for and fewer subjects for the voter to pass upon, at the same time. Many think that the great multitude of separate offices and commissions which have been created from time to time to meet new demands for official action should be brought into more definite relations with each other and under more systematic supervision and control.

These and other subjects have enlisted the interest of respectable bodies of citizens who are entitled to have from this Convention attentive consideration of their opinions. I will not continue the enumeration or enter upon a discussion of the subjects to be presented further than to say that we have before us in our own

country signal examples of great business organizations for production and commerce, through which conservation of resources, economy of expenditure and effectiveness of action have been attained to a very high degree; and citizens concerned in the great business of government may well learn a lesson from these examples.

The fundamental principle to be applied I take to be that responsibility and power shall always go together. Responsibility without power can never be justly enforced, and power without responsibility can never be duly controlled. Vague, indefinite, uncertain, overlapping and conflicting grants of power and divided responsibility make good administration impossible. Every public officer and agent should have clear and definite authority to do the acts required of him and should have some one over him with authority to hold him to responsibility, from the lowest employee to the highest elected officer whom the people themselves hold to responsibility at the polls. Grants of power should be clear and definite and the responsibility should be open, public, ascertained and unmistakable, so that praise and blame, reward and punishment, may be assigned by the people themselves with justice and certainty.

In our labors let us keep in mind that it is our duty, so far as our powers go, to preserve as well as to improve. While we seek to adapt the machinery of government to changing conditions, we are still to preserve the great body of rights and liberties which have grown through many centuries of political and juridical development, and under which we have so long been blessed by peace, order, justice and individual liberty and opportunity. It is not for us to tear down institutions based upon the customs and growing out of the life of the people whom we serve, merely for the purpose of substituting in their place creations of our own devising, however confident we may feel in the success of the experiments we may contemplate.

No wise legislator will undervalue the power for peace and order and progress which lies in the traditions of respect, the conformity to custom and the habit of obedience among a people toward their own established, though perhaps illogical, institutions. Where changes are needed they should be made fearlessly and thoroughly but in such a manner, with such relation to existing custom and opinion, as to be natural developments from the life of the people of the State; and in a State with such a history as ours the burden of proof rests always upon the advocates of change.

There is one other duty which a Constitutional Convention must always contemplate, although the constancy of our people

to the political ideals they have long followed may make it unnecessary for us now to give much of our time to its consideration. It is the proper office of a Constitution not merely to provide the frame work of government but to declare the principles of political morality and the rules of right conduct which are to control the State in its relations to the individual citizen. In that field the action of a Constitutional Convention is quite unlike ordinary legislation.

In prescribing constitutional limitations and framing bills of rights, a convention acts impersonally, in the abstract, without regard to particular occasion or special instance, and free from the excitements, the passions, the interested motives, the personal attractions and repulsions, which so often affect the ordinary affairs of government. Yet the conclusions to be recorded are of vast practical importance, for they determine not alone the precise and formal limitations upon official power, but the spirit in which government will be conducted and the tendencies of the nation's life.

Under the American conception of government the power of the State and of the nation and of all their agents, equally with the powers of the individual men, are subordinated to rules of right. Under the view with which this government was founded and exists there is a duty of public morality as truly as there is a duty of private morality. There can be no sovereignty superior to the law of morals. Above public power stands always the conception of public right. The answer to the question "What is the rule of public morality; what is the test of public right?" is not easy. It is to be found, I believe, not in the reasoning of acute and highly trained specialists, but in the conscience of the great body of the people when the people are instructed, law-abiding and liberty-loving, and when their voice is free from the impulses and distractions of special occasions, interests and desires.

Under our system, from generation to generation, the Constitutional Convention is the interpreter of the conscience of the people of its time in its answer to this vital and all-important question, "What is the moral law that rules our State and through what limitations shall our exercise of public power be made to conform to that law?" In entering upon the performance of that solemn and lofty duty, let us seek for a new birth in our souls of unselfish patriotism and strive for the power of clear vision and right thinking. We have in America one unchanging guide in the political philosophy of that great instrument which gave birth to the nation.

"All men," says the Declaration of Independence, "are endowed by their Creator with inalienable rights." "Governments

are instituted to secure these rights." That is a distinct denial and reversal of the theory which was held by the ancient republics and is still widely held and advocated, and which begins with the State as a basis of civil society and derives the rights of the individual only as a member of the State.

With us the rights of the individual citizen are not derived from the State but are independent of it; and all the powers of government find their justification only in their adaptation to secure the rights of the individual. The freedom of the individual will be limited only by the equal rights of all other individuals. The rights of the individual citizen to life, to liberty, to the pursuit of happiness, are held by indefeasible title. He cannot rightfully be deprived of those rights by legislatures or executives or majorities or armies. To secure the equal rights of every one of the 10,000,000 people of the State of New York is the end and object of all that we are to do; and an affirmation of the sacredness of those equal and inalienable individual rights is the primary maxim of the political morality which is to direct our conduct.

This is the seventh of the conventions meeting in orderly succession during the 139 years which have elapsed since New York was a colony. One who reviews the labors of the men that strove with the problems of their day in 1777, in 1801, in 1821, in 1846, in 1867 and in 1894 cannot fail to be impressed by the evidence that the problems of government never end. Settled for the moment they continually reappear in slightly varying forms upon the requirement of new conditions. Yet the unending effort for solution is the process which gives direction to the development of national life.

Above all our predecessors we are fortunate in serving a community itself inspired by an unprecedented interest in the subjects with which we are to deal, appreciating their importance, eager in discussion, fruitful of suggestion, desirous to contribute to a wise conclusion. That condition is a cheerful harbinger of the future, for indifference is the deadliest foe of democracy. A people alive to its problems is certain to move forward. If by thorough study and practical sense and sincerity of purpose we can lead this great discussion among the self-governing people of the State, even though not a line we write were voted into the Constitution, this Convention will not have failed in its purpose of usefulness to its generation.

The President — The next order of business will be the election of a secretary.

Mr. Tanner — Mr. President, I desire to place in nomination as secretary of this Convention an able, clean-cut and efficient

young man from the county of Ulster, Mr. William D. Cunningham.

Mr. Wadsworth — Mr. President, I desire to inform the Convention that Mr. Hammond, in a spirit of harmony and loyalty, has withdrawn his candidacy for secretary and I therefore desire to second the nomination of Mr. Cunningham.

The President — Are there any other nominations for secretary?

There being no other nominations for secretary the Chair will presume it is the pleasure of the Convention to select a secretary by acclamation. Is there any objection to that course? All in favor of Mr. Cunningham for secretary of the Convention will signify it by saying Aye, contrary No.

Mr. Cunningham is appointed secretary of the Convention, and will appear and take the oath of office.

The President (administering the oath to Mr. Cunningham) — Do you solemnly swear that you will support the Constitution of the United States, and the Constitution of the State of New York, and that you will faithfully discharge the duties of the office of secretary of the Constitutional Convention of the State of New York according to the best of your ability?

Mr. Cunningham — I do.

The President — Next order of business will be the election of a sergeant-at-arms.

Mr. F. L. Young — On the part of the delegates of the Twenty-fourth Senatorial District I rise to put in nomination the present very courteous and efficient sergeant-at-arms of the Assembly, Harry W. Haines.

The President — Any other nomination?

The Chair will put the question upon the appointment of Mr. Haines as sergeant-at-arms.

All in favor of that appointment will say Aye, contrary No.

The motion prevails and Mr. Haines will present himself to take the oath.

The President (administering the oath to Mr. Haines) — Do you solemnly swear that you will support the Constitution of the United States, and the Constitution of the State of New York, and that you will faithfully discharge the duties of sergeant-at-arms to the Constitutional Convention of the State of New York according to the best of your ability?

Mr. Haines — I do.

The President — The next order of business is the selection of a stenographer.

Mr. M. Saxe — Mr. President, for stenographer of this Convention I nominate the efficient stenographer of the Senate, who,

happily, bears the name of the great constitutional lawyer, Mr. John Marshall.

The President — Are there any other nominations?

Mr. F. L. Young — Mr. President, it happens that we are in a position to suggest to this Convention one who has taken practically all of the large legislative investigations, and has done it with great ability. I am sorry to inject into this harmonious gathering any other conditions, yet at the same time George M. Shotwell ought to be recognized and the members of this Convention ought to have opportunity to vote for him if they wish. We take pleasure in putting his name before this Convention.

The President — Are there any other nominations?

The secretary will call the roll and the delegates will indicate their choice for stenographer when their names are called.

The call of the roll resulted as follows:

FOR JOHN MARSHALL

Messrs. Adams, Ahearn, Baldwin, Bannister, Barnes, Baumes, Bayes, Beach, Berri, Betts, Bockes, Brackett, Brenner, Bunce, Burkan, Buxbaum, Byrne, Clearwater, Clinton, Cobb, Coles, Curran, Dahm, Daly, Dennis, Deyo, Dick, Donnelly, Donovan, Dow, Drummond, Dunlap, Dunmore, Dykman, Eggleston, Fobes, Fogarty, Foley, Ford, Frank, Gladding, Hinman, Jones, Kirby, Latson, Law, Leggett, Leitner, Lennox, Lincoln, Linde, Low, Mandeville, Marshall, Martin, F., Martin, L. M., Mathewson, McKean, McKinney, Meigs, Mereness, Mulry, Nicoll, C., Nicoll, D., Nixon, Nye, O'Brian, J. L., O'Brien, M. J., Owen, Parker, Parsons, Phillips, J. S., Phillips, S. K., Potter, Quigg, Reeves, Rhees, Richards, Rodenbeck, Rosch, Ryan, Ryder, Sanders, Sargent, Saxe, M., Schoonhut, Schurman, Sears, Sharpe, Shipman, Slevin, Smith, E. N., Smith, R. B., Stanchfield, Standart, Stimson, Stowell, Tanner, Tuck, Unger, Van Ness, Wadsworth, Wagner, Webber, C. A., Weber, R. E., Westwood, Wheeler, White, C. J., Wickersham, Wiggins, Williams — 111.

FOR GEORGE M. SHOTWELL

Messrs. Aiken, Austin, Barrett, Bernstein, Blauvelt, Cullinan, Eisner, Green, Greff, Hale, Landreth, Leary, Smith, A. E., Smith, T. F., Ward, Waterman, Whipple, Winslow, Young, C. H., Young, F. L — 20.

The President — Mr. Marshall is appointed stenographer to the Convention and he will appear and take the oath of office.

The President (administering the oath to Mr. Marshall) — Do you solemnly swear that you will support the Constitution of the United States, and the Constitution of the State of New York,

and that you will faithfully discharge the duties of stenographer to the Constitutional Convention of the State of New York according to the best of your ability?

Mr. J. K. Marshall — I do.

The President — The Secretary of State is recognized for the purpose of performing a statutory duty as chairman of the State Printing Board.

The Secretary of State — Mr. Chairman, pursuant to the statutory provisions, the printing board, consisting of the Secretary of State, Comptroller and Attorney-General, has complied with the law; the Board advertised for and received bids at 2 o'clock p. m. Saturday last. The report, together with the recommendation as to which bid is thought most advantageous pursuant to the provisions of the law, I now submit for your consideration.

Mr. J. L. O'Brian — Mr. President, I offer the following resolution:

Resolved, That, subject to such changes as the Convention may hereafter make, the rules of the last Constitutional Convention as set forth in the Revised Record of the last Convention, volume 5, pages 666 to 682, inclusive, be the rules of this Convention.

Excepting and excluding therefrom, however, the last five of the said rules, numbers from 73 to 77, inclusive.

And also provided, that in Rule 15 the following changes in committees be made, viz.:

(A) Committee No. 3:

After the word "Powers," in the title, insert the word "Limitations."

(B) Committee No. 10:

Instead of a "Committee on Railroads, Transportation, etc."—a "Committee on Public Utilities."

(C) Committee No. 19:

In the title, after the word "Interests," insert the words "and Relations."

(D) Committee No. 20:

Instead of a "Committee on the Salt Springs of the State"—a "Committee on the Conservation of the Natural Resources of the State to consist of seventeen members."

(E) Committee No. 28 (to be added):

On the Civil Service, to consist of seventeen members.

(F) Committee No. 29 (to be added):

On Library and Information.

Further resolved, That all proposals to change the rules which shall be offered in the Convention or delivered in writing by any delegate to the Secretary while the Convention is in recess and before the 21st day of April, 1915, shall be of course and without

debate referred to the Committee on Rules, when appointed, with instructions to report thereon to the Convention on or before the 30th day of April.

Mr. President, the last five rules of the Convention of 1894 deal with matters of transitory importance. They were brought into existence in order to deal with the congested business allotted to that Convention and are, therefore, not pertinent to the work of this Convention at this time.

Under this proposed resolution these five rules will be eliminated. The other changes are briefly as follows:

There will be, under this resolution, added to the standing committees of the Convention of 1894, two committees, one, a Committee on the Civil Service, whose functions are well understood; another, a Committee on Library and Information, it being intended that this committee shall supplement and carry on the work which has been so admirably done by the commission which has gathered data and furnished information to the members of this Convention.

The old Committee on the Salt Springs of the State, consisting of seven members, will be changed to a Committee on Conservation of the Natural Resources of the State, consisting of seventeen members. The other two changes are merely changes in nomenclature of the committees.

Under this resolution any proposal on the part of any member, offered either now or during recess, to change any of these rules will be referred, as a matter of course, to the Committee on Rules and the Committee on Rules is directed to make a report thereon, on or before the 30th day of April.

I move the adoption of this resolution.

Mr. Wagner — May I inquire, Mr. President, whether it is proposed that the rules of 1894, with the changes as suggested, shall be the permanent rules of this Convention?

The President — Yes, unless subsequently changed.

Mr. Wagner — Mr. President, it seems to me that there are very few of us who were members of the last Constitutional Convention and there are not, I suppose, very many of us who have had opportunity to examine and study the rules of that Convention, and I would suggest, as more in accord with parliamentary procedure, that we should adopt these rules as temporary rules of this Convention, and that a committee be appointed by the Chair to draft permanent rules and so give us all an opportunity to become acquainted with the new rules and also to make suggestions and changes.

It seems to me to proceed in this way, without our having an opportunity to familiarize ourselves with the rules of 1894 so as

to determine whether they are proper for us or not, is unjustifiable, and I would suggest to those in authority rather to make these the temporary rules of the Convention and then have a Committee on Rules appointed to bring in the permanent rules. That is the procedure which every legislative body follows; each year when we organize our new Assembly and each two years when we organize our new Senate this is followed.

Mr. J. L. O'Brian — I cannot accept that as an amendment but of course you may offer it, Mr. Wagner.

Mr. Wagner — I did not carefully follow the reading of the resolution so I am unable to prepare an amendment. The purport of my amendment will be that we take the rules of 1894 as temporary rules until the permanent Committee on Rules can be appointed and make its report to this body. That is the ordinary procedure of any body which adopts any rules of any character.

Mr. J. L. O'Brian — Mr. President, speaking to the subject of the resolution which I offered, I think the course therein outlined is the common-sense course to follow. Those of you who have read the debates of 1894 will recall that for three weeks or four weeks the subject of rules was discussed and debated, back and forth, with a great waste of time. The rules were then considered rule by rule. Now we have the benefit of all that experience. The rules of that Convention were apparently satisfactory to the men who sat in the Convention and there is no complication in this Convention resulting from the adoption of my resolution. It all comes to the same thing in the end. Under Mr. Wagner's proposition that we should adopt these merely as temporary rules, we should have many sessions of a Committee on Rules and then would be back here where we started from with a report from that committee, very few of us knowing much more about the rules than Mr. Wagner says we do now.

Now under my arrangement, the one I have suggested, we start off with a body of rules under which we can do business. Any one who desires to change any one of these rules may submit them here, or in writing during the recess. The proposed change will be submitted to the Committee on Rules. A command is laid on the Committee on Rules to report on that proposed change on or before April 30th. Now we must have rules with which to proceed at this time. It is important that we have our committees appointed at not later than the adjourned date after recess. We must have some rules under which to proceed this morning. Now it seems to me that the course which I have suggested is the common-sense course, based on the procedure of the former Convention. Every one has his day in court if he desires a change and

the amendment suggested by Mr. Wagner, I think, would lead to a course not perhaps unbusinesslike, but certainly unnecessary.

Mr. J. G. Saxe — I should like to ask the gentleman a question: If we adopt his resolution, will it take a two-thirds vote of this Convention to amend the rules so adopted or can they be amended by a majority vote?

Mr. J. L. O'Brian — My understanding is that under the Convention rules of 1894 the rules may be amended by a majority vote.

Mr. J. G. Saxe — Are you sure about it?

Mr. J. L. O'Brian — I have read the rules and that is the deduction I have drawn. I was not in that Convention. There are men here who were in that Convention and I suggest that they speak.

Mr. J. G. Saxe — I should like to be informed on that point, if possible.

Mr. Wagner — If I may say another word on this proposition: The very fact that it took three weeks in the last Constitutional Convention to adopt and agree upon rules shows the importance of this whole question, and I think that we ought not to be called upon to adopt rules permanently as members of this Convention when we are absolutely ignorant of those rules and by adopting a resolution to take the rules of 1894 as temporary rules we all will have an opportunity to apprise ourselves of those rules and the committee's report will be given no doubt to each member of the Convention and then we will know exactly what rules we adopt. It is a very important matter, for the rules are as much for the protection of the minority as they are to guide the deliberations and procedure of the majority. This is rather a hasty and extraordinary way of adopting permanent rules.

Mr. Parsons — Mr. President, there is no provision in the 1894 Convention which requires that an amendment can be adopted by a two-thirds vote or by any vote, therefore the parliamentary rule would hold where the majority voted to change any rule.

Let me also remind this Convention that the rules of the 1894 Convention were adopted upon a unanimous report of the Committee on Rules of that Convention and were, in the words of the ranking minority member of that committee, "eminently fair" to the minority in the Convention.

Mr. Wagner — Well, Mr. President, in answer to Mr. Parsons, let me say that I do not question the fairness of those rules; what I find fault with is that I do not know the rules and I am asked to vote for the adoption of permanent rules when I know nothing about what those rules are.

Mr. Parsons — May I correct a statement made by Senator

Wagner when he made his first remark, namely, that the ordinary procedure in every legislative body was first to adopt temporary rules? That is not the procedure in the House of Representatives at Washington. There the custom is to adopt the rules of the preceding Congress with certain amendments and so avoid the unnecessary labor of going through all the rules, the reading of rule by rule before amendment.

Mr. Wagner — I do not want to continue this debate indefinitely. Let me say there is a difference between the Congress and this Convention. Congress is in session year after year and its rules are well known and a large number of Congressmen from one year are members of the body the following year and, therefore, a large membership in each body is absolutely apprised of the character of the rules. It is not so here. I do not know how many of this body are acquainted with the rules of the Convention of 1894. I know that I know nothing about them.

The President — May I make a suggestion based upon some experience of the Convention of 1894?

We wasted a very great amount of time in that Convention in discussing rules that nobody cared anything about — the effect of having each rule presented with the necessity of debating paragraph by paragraph. The Chair would feel bound to make a ruling upon the resolution of the gentleman from Erie, Mr. O'Brian, that I think would practically amount to the same thing that Mr. Wagner desires. That is, that only the rules would be permanent which are not questioned, in the manner provided for by the resolution. All rules that anybody questions would be temporary rules, for the Committee on Rules is ordered by the resolution to report them back and all proposals for the change, to the Convention on or before the 30th of April. So that, and as the rules can be changed by majority vote, all the rules that anybody questions would be temporary rules, and only the rules that nobody questions would remain without our spending any more time over them.

Now I am ready to put the amendment of Mr. Wagner if he insists upon it.

Mr. Marshall — Mr. President, I desire to make one suggestion with regard to one of the committees that have been named in the resolution, that is the Committee on Library and Information. The suggestion has been made by the mover of the resolution that that committee is to take the place of the commission appointed by the Governor in 1914 to collect and distribute information. The effect then of the adoption of this rule would be that it would practically be at a standstill with regard to important work from now on until the 30th of April which is to be named

as the day when the rules may be amended, if I understood the resolution correctly. The original act by which the Legislature provided for the appointment of a commission was chapter 261 of the Laws of 1914. By that act the commission was directed to compile information and print and circulate it among the delegates before the beginning of the deliberations of the Convention. That operated as the termination of any powers of the commission upon the gathering of the Convention. The Legislature, however, has amended that act by a law which was signed by the Governor yesterday, which extends the power of the commission during the course of the Constitutional Convention as well as before the opening of said Convention and it makes an appropriation of money which may be expended under the supervision of this committee for the purpose of carrying out the provisions of the act as amended.

Now there is a very important piece of work which I understand the commission has undertaken, as to which it has made some preliminary survey, which should be completed at the earliest possible date, so as to enable the members of the Convention to have that information as soon as possible. If this Committee upon Library and Information is to be vested with those powers it would become necessary, I think, to get a further important bill from the Legislature, and that would take time. In fact I think it would be necessary in any event to ask for a further appropriation even for the commission.

While I am on my feet let me call attention to one piece of work of the commission which the Secretary of State very properly alluded to in his introductory address and that is the publication of the volume which is called "Government of the State of New York, Organization and Functions." Probably no more useful publication has ever been collated in the history of this State. It enables us for the first time to have a birds-eye view of the public service of the State and gives us for the first time material on which we or our successors or the legislators of the State may act with regard to economy and retrenchment and with regard to a proper system of taxation. It is necessary to have similar information with regard to the great cities of the State; with regard to the city of New York, which is practically on the eve of bankruptcy, on account of the fact that there is such ignorance on the part of the people of the State with regard to the needs of that great community and the public service of the State.

I understand that the commission has been gathering information for the purpose of publishing a volume of the same character; that the bureau of municipal research has been at work upon

that subject and it was my intention to introduce a resolution which would instruct this commission to proceed at once with the gathering of that information and the printing of the book with the idea that their work should be completed, as I understand it can be completed, as early as the 15th of June and that the Legislature be requested to make the necessary appropriation to make that work possible.

If, however, we delay upon the passage of this resolution which confers the powers which are now vested in this commission upon this committee I am very much afraid we will be unable to get that information in time to make it useful.

This committee will not interfere in any degree with the commission. Indeed it will be a means by which the Convention would supplement the work of the commission as the commission would desire. There are some things which have to be done and completed which cannot well be done by an outside commission.

Mr. Low — I must detain the Convention for a moment. I want to protest against the phrase used by the last speaker, probably inadvertently, when he said that the great city of New York was near bankruptcy. As a former mayor of the city I would like to say that the city of New York is entirely solvent and that it is not in any way near to bankruptcy, whatever its problems may be.

Mr. Brackett — Mr. President, I challenge the power of this Convention to in any way limit either in scope or time the commission which has been formed. I think, therefore, my brother Marshall's fears are groundless. I beg to assure Mr. Saxe and Mr. Wagner that if there is in the body of rules proposed any provision that requires more than a majority to change the rules, and there is any hampering beyond the usual by reason of the power to close debate, when this body comes together again at the close of the recess which we all understand is to be taken, we will stand with the entire and exact power which we now have to adopt such amendments as may then suggest themselves.

Therefore, with the greatest sympathy with my brother Wagner in his care for the rights of the minority in my heart, I still find no such trouble as he finds in adopting these rules at the present time and giving them the scrutiny which we all should give them with a view to making such amendments as may be necessary.

A Delegate — I should like to ask one question: That is, whether the resolution now provides that the report of the Committee on Suggested Amendments shall be mandatory or permissive?

The President — The report of the committee cannot be mandatory. The direction to the committee is mandatory. The com-

mittee is required to report back to the Convention all proposals for changes in the rules on or before the 30th day of April, so that every rule subject to any question by any member of the Convention shall be before the Convention at that time.

Mr. Wagner — My good friend Senator Brackett's assurances are always comforting to me. I withdraw my proposed amendment.

Mr. Brackett — I want to make a suggestion with respect to the inquiry just made, that the matter can always be reached by a motion to discharge the committee which will bring the whole matter before the Convention.

The resolution was adopted.

Mr. J. S. Phillips — Mr. President, I offer the following resolution and move its adoption:

Resolved, That the Convention deems necessary the following officers, employees and assistants, and fixes their compensation as follows:

(1) A President and First and Second Vice-Presidents, to receive no compensation apart from that pertaining to the office of delegate.

(2) A secretary, with the same compensation as the Clerk of the Assembly (See Consolidated Laws of 1909, Volume 3, Page 2111), \$3,500, plus \$750.

A sergeant-at-arms, with the same compensation as the sergeant-at-arms of the Assembly.

A stenographer, with the same compensation as the stenographer of the Assembly. To the stenographer shall also be paid the sum necessarily expended by him, with the approval of the Committee on Contingent Expenses, for the employment of assistants in the performance of the duties imposed upon him, \$2,500.

Four assistant secretaries, with the same compensation as the assistant clerks of the Assembly.

An assistant sergeant-at-arms, with the same compensation as the assistant sergeant-at-arms of the Assembly.

A librarian and an assistant librarian, with the same compensation as the librarian and assistant librarian of the Assembly.

A postmaster, with the same compensation as the postmaster of the Assembly.

A clerk and a stenographer for the President, with the same compensation as the clerk and the stenographer to the Speaker of the Assembly.

A janitor, four doorkeepers, nine general clerks, ten general messengers, and ten pages, with the same compensation respectively as the janitor, assistant janitor, doorkeepers, general clerks, general messengers and pages of the Assembly.

The President — Are you ready for the question upon this resolution?

The resolution was adopted.

Mr. Brackett — I offer the following resolution, which I ask that the clerk may read and I move its adoption.

The Clerk — Moved that the Convention proceed to the election of a First and Second Vice-President upon a call of the roll, each member, when his name is called, rising in his place and stating his choice.

The resolution was adopted.

The President — Nominations for First Vice-President are in order.

Mr. Brackett — Mr. President, I nominate for the First Vice-President of this Convention, Hon. Jacob Gould Schurman.

A Delegate — Mr. President, I nominate for Second Vice-President, Mr. Morgan J. O'Brien.

The President — Is a roll call desired upon the nomination of First Vice-President?

The President — Without objection the Chair will put the question on the election of Mr. Schurman.

Mr. Schurman is unanimously elected.

The President — Mr. Schurman will present himself and take the oath of office.

The President administers the oath.

The President — If there is no demand for a roll call upon the election of a Second Vice-President, all in favor of the motion that Mr. Morgan J. O'Brien be the Second Vice-President will signify it by saying Aye.

The motion was carried.

The President — Mr. O'Brien will appear to take the oath.

The President administers the oath.

Mr. Hinman — Mr. President, I offer the following resolution and move its adoption:

Resolved, That a special committee of seven and the President be appointed to consider and report to the Convention, as soon as shall be practicable, nominations for the officers, employees and assistants which have been declared to be necessary and have not been heretofore appointed, and that all nominations for such positions which shall be filed with the secretary by members of the Convention be laid before the Convention at the same time with the report of the Special Committee.

The President — The Chair wishes to make a statement to the Convention relative to this resolution.

For the first time, the Constitution of the State imposes specifically duties upon the Constitutional Convention, in regard to its

employees, to determine what employees are necessary, to fix their compensation and to appoint them. Heretofore such appointments have been made by the President of the Convention. Now under the Constitution appointment is to be made by the Convention.

In order that the Convention might proceed as rapidly as possible with its work, I took the liberty some weeks ago of writing a formal letter to the Clerk of the Assembly and another to the Clerk of the Senate saying to them that it was desirable that the Convention should have at hand material from which to make their choice for these appointments and that the Convention would naturally wish to have some at least of its employees men who were familiar with legislative business and had proved their efficiency and ability in the work of the Legislature, and asking each of them to send me a list of the employees of the Senate and Assembly with such indication as they thought proper to make regarding the efficiency and usefulness of the employees.

Accordingly they have sent me lists of the doorkeepers, sergeants-at-arms and clerks and various employees of the Assembly and of the Senate, and those lists, checked by these officers to indicate the most efficient and useful, I will lay before the Convention and refer to the committee mentioned in this resolution if the Convention sees fit to provide it.

Are there any remarks to be made upon the resolution?

All in favor will please say Aye, contrary No.

The resolution is agreed to.

Mr. Tanner — Mr. President, I offer the following resolution and move its adoption:

Resolved, That the Committee on Rules, as soon as practicable after the appointment of the committees enumerated in Rule 15, confer with the committees and report to the Convention upon the number and compensation of committee clerks and the number and compensation of committee stenographers which may be necessary.

The President — Are you ready for the question upon the resolution? Those in favor will please say Aye, contrary No.

The resolution is agreed to.

The President — The Chair lays before the Convention a communication from the printing board under the act of the Legislature March 17, 1915, which requires the printing board to advertise for bids for the printing of the Convention, to open the bids and transmit the bids so received and opened to the Convention at its first session, with their recommendation to that body which they consider most advantageous and with a blank form of contract.

The communication and the accompanying papers are now before the Convention and, in case the resolution is adopted, they will be referred to the Committee on Printing.

Mr. Betts — I wish to offer the following resolution and move its adoption:

Moved that the communication from the printing board be referred to the Committee on Printing, when appointed, to report thereon to the Convention as soon as practicable.

The President — All in favor will please say Aye, contrary No.

The resolution is agreed to and the communication will be referred to the Committee on Printing.

The Chair will announce the following Committee on Printing. The Clerk will read: Messrs. Berri, Betts, Nixon, Mereness, Beach, McLean, Dahm.

Mr. E. N. Smith — Mr. President, I offer the following resolution and move its adoption:

Resolved, That seats in the Convention chamber be assigned as follows:

First. To the Vice-Presidents in accordance with their choice in order.

Second. To the members who were also members of the Convention of 1894, in accordance with their choice, after the Vice-Presidents, in alphabetical order.

Third. To the remaining members in accordance with their choice in the order determined by lot.

The President — Are you ready for the question? All in favor please say Aye, contrary No.

The resolution has been adopted.

The Vice-Presidents will be good enough to make their choice of seats.

Mr. A. E. Smith — Mr. President, I would like to suggest to the Convention that the question of drawing seats might well be left until the next gathering, inasmuch as the chamber is not prepared to-day for the proper selection of seats. At best there will be eighteen men without seats, according to the present arrangement. These desks will unquestionably have to be arranged and at least eighteen more of them made available by the Clerk of the Convention between now and the time of our next gathering.

I would suggest, therefore, that the order of business of selection of seats be postponed until after the adjournment of the Assembly. I so move.

The President — The Chair will have to ask Mr. Smith to withhold that motion for a moment. Mr. Schurman is now engaged in selecting his seat.

Mr. A. E. Smith — Permit me to make it apply only to those who are to draw their seats by lot.

The President — May the Chair make a suggestion. That is, that we draw the lots and do not choose the seats. We might as well draw the lots now; it will save a great deal of time, and then the members can be thinking about the seats they have drawn.

Mr. Deyo — Mr. President, I move you that after the members of the Constitutional Convention of 1894 have selected their seats, and before lots are drawn, Judge Clearwater, on account of his physical defect in hearing, be permitted to select his seat. I think it is a fitting tribute to Judge Clearwater, and we will have greater advantage of his learning and his industry if he occupies a seat where he can hear as well as be heard.

The President — Mr. Deyo moves that after the Vice-Presidents and venerable men from former generations have been seated, Judge Clearwater be permitted to select his seat.

The motion was carried.

The President — Where do you wish to sit, Mr. O'Brien?

Mr. Brackett — Mr. President, I do not understand that the motion to postpone the drawing has been adopted.

The President — It has not. That will be in order after these gentlemen have finished what they are engaged in — the selecting of their reserved seats.

Mr. Brackett — I can assure Mr. Smith that it is manifest there must be two additional rows and that the additional seats will be directly in the rear. There can be no possible doubt on that subject and there can be no possible trouble in drawing these seats today. I suggest, therefore, that he do not press his motion to postpone and that we get through a very nerve-racking and very irritating part of the duty of this Convention while we have time.

Mr. A. E. Smith — I withdraw the motion at the suggestion of my friend, the Senator, and I think I will go over and confer with him how to get a good seat.

Mr. Brackett — I prefer to be in the back row.

A Delegate — Mr. President, there is another gentleman, a member of the Convention, who is also unfortunate in having a slight defect in hearing. Mr. Quigg from the Twenty-sixth district. I move that after Judge Clearwater makes his selection Mr. Quigg be accorded the same right for the same reason.

Mr. Quigg — I thank the gentleman for his consideration, and it is quite true that I am so unfortunate, but I fancy I shall manage some way or other and would rather take my chances.

The President — The Secretary will prepare the lots for drawing of choice of seats.

The Chair will entertain a motion that the Convention take a recess of fifteen minutes while the Secretary prepares the lots.

Whereupon, at 2:50 p. m., the Convention took a recess.

AFTER RECESS — 3:17 P. M.

The President — Gentlemen, before taking your seats, will you listen for a moment, remaining where you are?

I am advised that the custom which works very well in the Legislature for such a purpose is that the names of the delegates all being put in a box, they be drawn by the Secretary, and as the name of the delegate that is drawn is called he comes in and chooses his seat and occupies it. For that purpose, the delegates are requested to stand behind the rails until their names are called.

Mr. Brackett — Mr. President, may I make a suggestion? I move that the Hon. George Clinton, Sr., of Buffalo, be permitted to make selection of his seat before the drawing takes place. The idea is not my own; I claim no credit for it except as it was called to my attention. He is not in the most robust health and he should be permitted that privilege, in my judgment.

The President — It is moved that, on account of ill-health, Mr. George Clinton, Sr., of Buffalo, be permitted to select his seat in advance of the drawing. Are you willing to do that? All in favor of the motion will say Aye, contrary No.

The motion is carried.

The Vice-Presidents, the venerable men and the specially designated members are requested to take their seats now. The occupation of the seats will be a guide to those who make selections. First, the members of the former Convention, Mr. Clearwater and Mr. Clinton will be good enough to come within the rail and occupy their seats.

The Secretary will proceed to draw the names of the members from the box.

The Convention thereupon proceeded with the drawing of seats by lot.

Mr. Brackett — Mr. President, I suggest that it would considerably facilitate the selection if everybody who has a seat remains in his seat, as I think they are doing, and if everybody not yet entitled to a seat should now vacate the seats.

The President — That is a very sensible suggestion, and the Chair will suggest to the gentlemen who have selected seats to take their seats and remain in them, in order that they may not appear inviting to other applicants, and that the gentlemen who

may be in seats to which they are not entitled will now leave them and remain out of them.

The President — Gentlemen, the choice is now running into the back seats and I suggest that you withdraw a little from those seats so that the members may see what is vacant.

Mr. Brackett — Mr. President, in the absence of Mr. V. M. Allen, excused, may I draw for him?

The President — Without objection, Mr. Brackett will draw for Mr. Allen.

Mr. Mann — In view of the fact that all seats are taken that are here located and the new seats that are to be laid for the additional delegates will be outside of the rail I ask that the choice be deferred until those seats are located, since it is impossible to select any seat without knowing just exactly where it might be. In other words, I am asked to make a selection and there is not any selection to make.

The President — The Chair would suggest that if any gentleman is unwilling to make a selection of something he cannot see, the drawing continue and numbers be assigned and then the members who hold the numbers can choose in that order when the seats are placed.

Mr. Mann — I would like to know just where that seat will be located — that number. Oh, I understand now; I accept the suggestion of the Chair.

The President — Mr. Mann will be number one of the unaffiliated.

The Clerk — Mr. Mann, No. 1; Mr. Bannister, No. 2; Mr. S. K. Phillips, No. 3; Mr. Leitner, No. 4; Mr. McKean, No. 5; Mr. Kirby, No. 6; Mr. Rhees, No. 7; Mr. Weber, No. 8; Mr. Slevin, No. 9; Mr. F. C. Allen, No. 10; Mr. Landreth, No. 11; Mr. Dick, No. 12.

The President — The twelve gentlemen whose names have just been called will be enabled to select seats when the new seats have been placed in the order of the numbers they hold.

The President — If there are any gentlemen occupying seats to which they are not entitled will they be good enough to vacate?

The Chairman of the Committee on Printing wishes notice given of the meeting of the committee in front of the desk immediately after the adjournment for the day. Will Messrs. Berri, Betts, Nixon, Mereness, Beach, McLean and Dahm take notice of that call?

Several questions have been put to the Chair as to whether it will be necessary for us to meet to-morrow.

There is one very important piece of business which we cannot transact very well until to-morrow and that is the printing con-

tract. We spent weeks over it in the last Convention and we can dispose of it probably in a very few minutes to-morrow morning, but the Committee on Printing ought to have time really to consider it before making their report. It is too important, affecting all of the work of the Convention, to be hurried through without real consideration.

It will be necessary for us to remain only a short time to-morrow morning but that short time is very important.

Mr. Olcott — Mr. President, I move we adjourn until 10 o'clock to-morrow morning.

The President — Mr. Olcott moves to adjourn until 10 o'clock to-morrow morning.

The motion was carried.

Whereupon at 4:45 p. m. the Convention adjourned to meet at 10 a. m., April 7, 1915.

WEDNESDAY, APRIL 7, 1915

The President — The Convention will be in order. Prayer will be offered by the Rev. J. W. Hopkins.

Prayer — Almighty God, our Father, giver of every good and perfect gift, we thank Thee for the light of the day in which Thou dost summon us to such high labor. Send down upon these counsellors, we beseech Thee, the spirit of wisdom, the spirit of concord, the spirit of purity and justice; preserve with Thy blessing whatever may be here devised for the welfare of the Commonwealth, for the peace and prosperity of the nation and for the glory of Thy Great Name. Amen.

The President — The secretary will read the journal of yesterday.

Secretary reads the journal.

Mr. Deyo — Mr. President, I move you that the reading of the statutes be dispensed with.

The President — Without objection that will be so ordered.

The secretary proceeds with the reading of the minutes of the preceding session.

Mr. Schurman — Mr. President, I move that we dispense with the further reading of the minutes.

The President — It is moved that we dispense with the further reading of the minutes.

Mr. F. L. Young — Mr. President, I would like to call attention to the fact that a very gracious act was committed by the action of Mr. Wagner in moving that the election of Mr. Root be made unanimous which does not appear in the minutes.

The President — The minutes will be corrected accordingly. Are there any other amendments to the minutes? All in favor of dispensing with the further reading of the minutes say Aye, contrary No. It is carried.

The President — The special order allotted informally for the day is the report of the Committee on Printing. Is the committee ready to report?

Mr. Berri — Mr. President and gentlemen of the Convention, the Committee on Printing have had two sessions and they have given this matter, which is a serious one, every possible thought. Upon the committee we have three gentlemen who are identified in some way with the printing business, which gives us the basic idea that we are working properly in considering the bids.

We find that the Secretary of State and the Comptroller and the Attorney-General, in accordance with the law, have properly, apparently, advertised for bids for the printing of this Convention. The safe-guarding of the interests of the State seems to have been well handled. We have also upon our committee, as you may know, a very able attorney, who has gone over the legal part.

I don't suppose that you wish to hear regarding the advertising for these bids. If you do they can be read.

According to law each of the bidders had to deposit a check for \$10,000 as a guarantee of good faith and to make his bid legal. You can see the matter is one of large importance because of the amount of money that had to be deposited in making the bids perfect. We have gone over the bids. They differ very materially but we analyzed them as best we could, with careful thought and attention, and we have adopted a report which is unanimous. Another item, the articles of agreement that have been prepared in the Attorney-General's office seem to cover every point with caution and care that should be given to a work of this kind. No extras of any kind can be done by the successful bidders without authorization of this Convention or the State Printing Board. I am not sure but that the State Printing Board would have to authorize after we had requested. So that all that is possible for a committee to do in the interests of this Convention, so far as I can see, has been done and your committee make this signed report. I may say that the State Printing Board have given apparently very thorough, careful consideration of these bids and that they have presented to us the recommendation, signed by the Secretary of State and State Comptroller and Attorney-General which reads as follows:

To the Constitutional Convention:

Pursuant to the provisions of chapter 76 of the Laws of 1915, we transmit herewith proposals which have been received in accordance with said statute for the printing of the documents,

journals, and proceedings of the Convention, as directed by the statute. We respectfully recommend the acceptance of the bid which we consider most advantageous, that of the J. B. Lyon Company, in accordance with the statutes. We respectfully submit herewith a blank form of contract, with our recommendation, for the use of the Convention, should it so determine.

This contract we have here and, as I say, a gentleman upon our committee, by the instruction of the committee, has gone over this carefully and been to the Attorney-General's office and gone over it there and seemingly it covers every point; at any rate every point of which we have any knowledge that should be in a contract of that kind.

So that our report, Mr. President, is:

To the Constitutional Convention:

The undersigned committee respectfully reports that it has carefully considered the report and recommendation of the State Printing Board, with the accompanying bids and papers submitted to it, and recommends the acceptance of the bid of the J. B. Lyon Company. It also advises the execution of the contract prepared and recommended by the State Printing Board.

We further recommend that until further ordered the number of copies to be printed shall be as follows: Of the proceedings of the Convention, 700; of the journal, calendars, documents and proposed constitutional amendments, 500 each.

Signed by all members of the committee present, which included everybody but Mr. McLean, who could not sit yesterday. Therefore, Mr. President, I offer the following resolution and ask for its adoption.

The President — Will Mr. Berri be good enough to send up the report to the desk?

Mr. Berri — Do you wish the bids also? The report is prepared — do you wish the bids?

The President — If there is any desire for the reading of the report that will be done. If not, the secretary will read the resolution offered by the committee.

The Secretary — Resolved, That the State Printing Board be and they are hereby authorized to execute a contract for the printing of the journals, documents and proceedings of the Convention pursuant to the recommendation of the Committee on Printing in their report made April 7, 1915.

The President — Are you ready for the question on the resolution submitted by the Committee on Printing? All in favor of the resolution will say Aye, contrary No. The resolution is carried and the contract is authorized.

The Chair will announce the appointment of the committees which are especially required at this time because of their having preliminary work to do.

The Secretary — The Committee on Rules: Mr. O'Brian of Erie, Mr. Hale, Mr. Barnes, Mr. Parsons, Mr. Delancey Nicoll, Mr. Sheehan and Mr. Wagner.

The Committee on Contingent Expenses: Mr. Samuel K. Phillips, Mr. Fobes, Mr. Bell, Mr. Sharpe, Mr. Sears, Mr. Mulry and Mr. Dykman.

The Special Committee on Nominations for Minor Offices: Mr. J. S. Phillips, Mr. Tanner, Mr. Hinman, Mr. Meigs, Mr. Tuck, Mr. Doughty and Mr. A. E. Smith.

The President — The rule adopted provides for a clerk to the President, and as the President has to do a good deal of work during the recess, which it is understood we are to take, I will ask the Convention to make the appointment of that clerk now without awaiting the report of that committee. I would be very much obliged to you if you would appoint Mr. C. H. Osborne, of New York, clerk to the President.

The Constitution says that the President shall appoint and I think it just as well to do it directly.

Mr. Cullinan — I move that Carl H. Osborne be and hereby is appointed clerk to the President.

The President — Those in favor of the motion will say Aye, contrary No.

It is agreed.

Mr. Deyo — I offer the following resolution and move its adoption:

The Secretary — Resolved, That a committee of two be appointed by the Chair to wait upon the Governor and inform him that the Constitutional Convention is now organized and in session, and that the members would be pleased to call upon him and pay their respects.

The President — Any remarks to make upon this resolution? All in favor will say Aye, contrary No.

The resolution is adopted.

The Chair will appoint Mr. Deyo and Mr. Dykman to wait upon the Governor in execution of this order.

Mr. R. B. Smith — Mr. President, I offer the following resolution and move its adoption:

The Secretary: Resolved, That the secretary of the Convention be empowered to provide the necessary blanks, stationery and supplies for the use of the Convention and its members.

The President — All those in favor say Aye, contrary No.

It is agreed to.

Mr. M. Saxe — I offer the following resolution and move its adoption:

The Secretary: Resolution for holding appropriate exercises on June 15th, to commemorate the seven hundredth anniversary of the adoption of the Great Charter.

Whereas, On the 15th day of June next occurs the seven hundredth anniversary of the adoption of the Great Charter of English liberty,

Resolved, That this Convention commemorate said event on that day by appropriate exercises, and

Resolved, That the President be and he hereby is authorized to make the necessary arrangements therefor.

Mr. A. E. Smith — Mr. President, I move that the resolution be referred to the Committee on Rules.

The President — Are there any remarks upon that motion? Is that satisfactory to you, Mr. Saxe?

Mr. M. Saxe — Entirely.

The President — All in favor say Aye, contrary No.

The motion is adopted.

Mr. Marshall — Mr. President, I offer the following resolution and ask that it be adopted:

The Secretary — Whereas, The commission appointed pursuant to chapter 261 of the Laws of 1914, for the purpose of compiling and printing such information and data as it may deem useful for the delegates to the Constitutional Convention now in session, in their deliberations, has prepared and distributed a volume entitled "Government of the State of New York. A description of Its Organization and Functions," which relates solely to the public service of the State, and

Whereas, It is deemed desirable that a volume containing similar information and data with regard to the government of the city of New York and a description of its organization and functions, as well as of the several counties of the State, be compiled, printed and distributed among the delegates to this Convention, for use in their deliberations, at the earliest practicable day;

Resolved, That the commission be and it is hereby requested to proceed forthwith with the collection, compilation and printing of such additional material relating to the city of New York and to the several counties of the State, so far as it is practicable to do so, provided the same shall be completed and in readiness for circulation and distribution on or before June 20, 1915, and provided, further, that the Legislature amend chapter 261 of the Laws of 1914 and chapter 201 of the Laws of 1915, so as to authorize the commission to carry out the terms of this resolution, and shall to that end make such appropriations as may be required

for that purpose, and the Legislature is respectfully requested to enact such laws as shall carry into effect the intent and purpose of this resolution.

Mr. Marshall — There is but little to add in support of this resolution to what I said yesterday in referring to this subject. The distinguished former mayor of New York took exception to my remark to the effect that the city in which we both reside is on the verge of bankruptcy, fearing thereby that its credit might be affected. In view of the fact that city's debt is \$1,537,000,000, greater than the national debt, that would not be an unmixed evil. While it will not occur to-day or to-morrow, suspension of payment by the city or the placing of the city in the hands of a receiver, the individual units, the taxpayers, are struggling under such burdens as to make reference to bankruptcy something more than a figure of speech. It may at the same time be said that when honest creditors of the city are kept out of their just dues for long periods, a virtual state of bankruptcy is at hand. Property is assessed at more than the market value; rates of taxation become higher and higher; on several occasions the constitutional limit stretched; the annual budget mounting high; the taxpayer of the State regularly encounters new forms which were never considered when he contemplated the tax and we have tried new channels for raising more and more income. Perhaps the time has arrived when it would be well to diminish the outgo. If we are led to a proper consideration of the causes of the mischief and to a suggestion of the required remedy we may find that our public treasuries are become the feeding places of supernumeraries, a despicable bureaucracy that may threaten destruction. If he is a public benefactor who enables two blades of grass to grow where but one grew before, he is none the less entitled to gratitude who makes one office holder suffice where two now vegetate. But analytical study may evolve at least a partial remedy of what is rapidly becoming an immeasurable evil, which, if not speedily crushed, will result in literal bankruptcy.

Mr. M. J. O'Brien — Mr. President, some information on the subject referred to in the resolution: It may be of interest to the gentlemen of the Convention to know that this subject was taken up by the Legislature more than a year ago in compiling these statistics relative to the cost of the city, county and State government and some progress in that direction was made under an appropriation which was given, about \$10,000 as I have been told, and, upon the establishment of a commission of which I have the honor to be the chairman, we took up this along with other subjects which we thought it important that the members of the Convention should have when they came here to deliberate and we prepared,

because the data was more readily at hand, that book which has been placed in the hands of all the members of the Convention, bearing upon the expenditures of the State with respect to the cities and counties of the State. A great deal of work has been done and the data largely collected, but we were confronted by the fact that in order to complete it it would take more money than we felt the commission should expend without the authorization of the Convention itself. You will recall that the original appropriation of this commission was \$10,000, to which the Legislature very kindly added, only day before yesterday, \$5,000. That is ample for all of the work that we had planned with the exception of the work to which this resolution refers.

I might state in passing that the bureau of municipal research of the city of New York, in connection with the bureau of State efficiency, had taken up the work so far as it related to the government of the State. They also collected a great deal of material relating to counties and cities.

I have endeavored, and the other gentlemen associated with me on the commission, Dr. Finley and the other gentlemen, have investigated with a view to seeing exactly what it would cost to make this compilation complete. I can hardly overestimate the value of this data if it could be within our means to present it to each delegate of the Convention, but the expense is far more in proportion to the work already undertaken by the commission. The closest estimate we could get is about \$30,000, and in these times, when it is important that economy should be practiced, the committee felt they should not ask the Legislature to do anything further, until the subject was presented to the Convention.

The commission would be very glad to go on with the work. Considerable money has been furnished from private sources to this end. A number of public-spirited gentlemen have contributed money for the purpose of gathering together this information and in order to make it available of course it must be printed.

Now it seems to me that the way to handle it — I don't know whether the two things can be brought together — this Convention has provided for a committee that was to take up the question of doing certain work of furnishing data in connection with this commission which is already in existence and, as far as the commission is concerned, if it is the wish of the gentlemen of the Convention and if they think that the State is in condition to justify this expenditure, I would say that it will be a work which will not only be useful to the members of this Convention but it will be a contribution which will be of great value for many years to come and a work that has never been systematically done. Now it is in line so that it can be completed, and if it is the wish of the

gentlemen of this Convention that the commission shall proceed with the work, all I can say is we would be very much pleased to do it and would like to do it, and would like to have that information in the hands of every gentleman in the Convention, and if we can get the necessary funds we can have this shortly after we meet again.

The President — Are you ready for the question upon the resolution? I didn't understand Mr. O'Brien to make any motion regarding the resolution.

Mr. M. J. O'Brien — No, sir; my disposition is that it should be left entirely to the Convention. I simply furnish it the information that the data was ready and that it could be prepared if it is deemed advisable to expend the amount, which will not exceed \$30,000.

The President — The only motion before the Convention is the motion made by Mr. Marshall pressing a request to the Legislature, and that is the only action competent to take unless some modification is suggested.

Mr. Wadsworth — Mr. President, I was going to say I think that resolution is of sufficient importance to go to a committee. I don't think that we can fairly give it consideration in this short session to-day. It is a matter of great importance and some expenditure, and if in order I move it be referred to the proper committee.

Mr. Wickersham — I hope Mr. Wadsworth will not press that motion. If we are to have the information, I think it important not to delay. We have no appropriation, I understand, available to the Convention; therefore, it seems to me that Mr. Marshall's resolution is appropriately drawn to accomplish the purpose. Judge O'Brien has pointed out the great value of having this information, which is substantially prepared and needs simply to be completed, finally formulated and printed, and in order to have it by June 20th I think that it will be necessary to proceed forthwith with the work and, therefore, I have seconded and urge the adoption of Mr. Marshall's resolution which requests the Legislature, which has the power, to make the necessary appropriation.

Mr. A. E. Smith — Mr. President, I wish to make the same point, that under the resolution, its reference at this time would defeat its purpose. The Legislature, according to its program, is to adjourn within at least two weeks, and unless action is taken to-day to request the Legislature to put this appropriation in some of the supply bills the resolution will be worth nothing.

Mr. Wadsworth — I have no wish, Mr. President, to defeat the resolution, and if that is the situation I withdraw my motion.

The President — May the Chair make a statement? I have

been advised by the Speaker of the Assembly that, upon a conference between the officers of the Assembly and of the Senate, there has been an understanding reached that in all probability the Legislature will adjourn upon the 22d of April, leaving but a short period for their further work; and let me say also it is the intention of the Chair to appoint Mr. O'Brien and Mr. Wagner, who are members of the commission, the statutory commission, members of the Committee on Library and Information, so that what Mr. O'Brien has just said almost amounts to a report of one of our own committees, and if the resolution offered by Mr. Marshall be adopted, that will go to the Legislature to be dealt with in accordance with the views, so far as the Legislature sees fit to do so, of members of the commission regarded as members of the Convention, and it would be quite easy for them to work out the result on which everybody seems to agree. Are you ready for the question on the resolution?

Mr. Low — I wish an opportunity to say, Mr. President, that I am very heartily in favor of the resolution.

The President — All in favor of the resolution will say Aye, contrary No.

The resolution is agreed to.

Mr. J. L. O'Brian — Mr. President, I offer the following resolution:

The Secretary — Resolved, That the Secretary be authorized and instructed to procure a special print of the resolution adopted April 6th relating to the rules of this Convention and forthwith mail a copy thereof to each member of this Convention at his residence address.

The President — Are you ready for the question upon this resolution? All in favor of the resolution say Aye, contrary No.

The resolution is carried.

Mr. Deyo — Mr. President, the committee appointed by this body to wait upon the Governor and to apprise him that the Constitutional Convention is now organized and in session, and that the members would be pleased to call upon him and pay their respects, beg to report that they have performed that duty, and the Governor says he would be pleased to receive the members of this Convention at once.

Mr. Barnes — Mr. President, I should like to offer a motion that when this Convention adjourns to-day it be to adjourn until Monday evening, April 26th, at 8:30 o'clock.

The President — The motion of Mr. Barnes will be withheld for the resolution of Mr. Buxbaum inviting the surviving members of the Convention of 1894 not members of this Convention to attend the sessions of this Convention, and that the Secretary

be and hereby is directed to send invitations to all such surviving members.

If there is no objection, that will be referred to the Committee on Rules. It pertains to the rules regarding privileges of the floor.

The motion of Mr. Barnes, that when the Convention adjourns on this day, it adjourns to meet at this place at 8:30 o'clock Monday evening on the 26th day of April, is before the Convention.

The Chair will call to the attention of the Convention the information just communicated from the Speaker. The adjournment of the Legislature will be beyond doubt on the 22d of April, which will be on a Thursday. If we came back immediately the following day it would bring us here on Friday, and it would probably not be worth the while of the members of the Convention to come from their homes here on Friday, as most of them would be obliged to return immediately the following day for the weekend. So that the evening of the 26th seems to be a convenient time for us to convene.

Are you ready for the question on the motion that the Convention when it adjourns to-day adjourns until 8:30 p. m. on Monday, the 26th of April? All in favor of the motion will say Aye, contrary No.

The motion is carried.

The President — The Chair wishes to announce that there will be a meeting of the Committee on Rules immediately after the Convention has paid its respects to the Governor.

The meeting will be, by the courtesy of the Speaker, in the Speaker's room.

Notice of the meeting of the Committee on Nominations for Minor Offices and Employees will be given by the chairman, Mr. J. S. Phillips.

Notice of the meeting of the Committee on Contingent Expenses will be given by the chairman as soon as the committee is ready.

The Convention upon adjournment will form in line and proceed to the office of the Governor: the President and Vice-Presidents of the Convention and all the members of the Convention.

Is there any other business before the adjournment for the day?

A Delegate — May I ask that my colleague, Mr. Moses Wafer, be excused, on account of illness?

The President — The Chair hears no objection and it will be so ordered.

Mr. Unger — Mr. President, I offer the following resolution:

The Secretary — Resolved, That all further sessions be in the Assembly Chamber at Albany until other notice, so that the

members of the Convention may make temporary living arrangements in accordance with that plan.

The President — All in favor say Aye.

The motion is carried.

Mr. Schurman — I move that the Convention do now adjourn.

The President — It is moved that the Convention do now adjourn. All in favor say Aye.

The motion is carried.

Whereupon, at 11:10 a. m., Wednesday, April 7, 1915, the Convention adjourned to meet at the same place on Monday, April 26, 1915, at 8:30 o'clock, p. m.

EVENING SESSION — 8:30 P. M.

The President — The Convention will be in order. Prayer will be offered by the Rev. Roelif H. Brooks.

Prayer — Oh, God, the Fountain of Wisdom, whose will is the law of happiness for peoples as for persons, we beg Thy guidance and blessing for the Constitutional Convention of our State. Grant that truth and justice may rule the deliberations of its members and that their decisions may promote Thy glory, and the true welfare of our Commonwealth. Through Jesus Christ our Lord, Amen.

The President — Are there any corrections or amendments to the Journal to be proposed? If not, without objection, the Journal stands approved.

The Chair will say to the delegates that instructions have been given to remove the rail in the rear of the Chamber to a place behind the large columns so that the delegates in the rear seats will not be inconvenienced as they must be this evening. The Chair will also say that the very beautiful American Beauty roses in the rear of the Chamber are temporary. The distinguished gentleman from Saratoga will not be eclipsed during the remainder of the session.

The first business in the completion of the organization arrangements, coming over from the last day's session, will be the selection of the remaining seats in the order which was determined on the last legislative day. The Secretary will call the names of the delegates who have not already selected their seats, and as their names are called they will make the selection.

The Secretary called the names of members referred to by the President and they made selections of their seats as their names were called.

The President — The next order of business is the report of the Committee on Rules.

Mr. J. L. O'Brian — The Committee on Rules submits the following report.

The Secretary — Pursuant to the resolution of the Convention adopted April 6, 1915, the Committee on Rules has considered all the amendments to the rules which have been offered in the Convention or filed with the Secretary, and the Committee reports thereon as follows:

1. By Mr. C. Nicoll:

That Rule 15 be amended by separating Committee No. 7 on the State Finance, etc., and making a separate Committee on Taxation. Upon this proposal the Committee reports favorably and recommends the adoption of the following resolution:

"Resolved, That Rule 15 be amended by striking out from the description of Committee No. 7 on the State Finances, Revenues, Expenditures, etc., the words 'and taxation' and by adding at the end of the rule the words and figures '30, on Taxation, to consist of seventeen members.'"

2. By Mr. Root:

That Rule 15 be amended by changing the title of Committee No. 1 from "Preamble and Bill of Rights" to "Bill of Rights." Upon this the Committee reports favorably and recommends the adoption of the following resolution:

"Resolved, That Rule 15 be amended by striking out from the description of Committee No. 1 the words 'preamble and.'"

3. By Mr. Sheehan:

That the rules be amended so that the President and Vice-Presidents may take part in the discussions in the several Committees. Upon this the Committee reports favorably and recommends the adoption of the following resolution:

"Resolved, That Rule 2 be amended by adding thereto the words 'the President and the Vice-Presidents shall be consulting members, without vote, in the several Committees to which they shall not have been specifically appointed.'"

4. By Mr. Buxbaum:

That members of former Constitutional Conventions shall be entitled to admission to the floor of the Convention during the sessions thereof. Upon this the Committee reports favorably and recommends the adoption of the following resolution:

"Resolved, That Rule 54 be amended by inserting after subdivision 2 the following words: '3. Members of former Constitutional Conventions,' and that the remaining subdivisions of the rule be renumbered accordingly."

5. By Mr. Root:

That a new rule be made limiting the time for the introduction and reference of proposed amendments to the Constitution to the period ending June 1, 1915. Upon this the Committee reports favorably and recommends the adoption of the following additional rule:

"Rule 73. On the 1st day of June, 1915, the call for proposed constitutional amendments by districts under Rule 3 shall be discontinued and thereafter no proposed constitutional amendment shall be introduced except on the report or recommendation of a standing or select committee."

6. By Mr. Hale:

Addition to Rule 31:

"Matter which it is proposed to strike out shall be in brackets, and new matter shall be underscored and when printed shall be in italics. All proposed amendments shall be presented in duplicate." The Committee reports upon this favorably and recommends its adoption.

Mr. J. L. O'Brian — I move this report be adopted as read.

Mr. Quigg — Does that mean the adoption of the rules as they are proposed?

The President — That would.

Mr. Quigg — Mr. President, I think we ought to have a chance to look at them.

The President — Any member, or any delegate is entitled to a division and the putting of the question upon each separate rule as proposed.

Mr. Brackett — Mr. President, the rule, which I think is 73 in the report, I would ask that it be submitted separately to the vote of the Convention. That is the rule relative to the limitation of the time within which amendments may be offered on the floor.

The President — The question will be divided in accordance with the request of the gentleman from Saratoga.

Mr. Quigg — Mr. President. I move that the rules be made a special order for to-morrow morning, so that we can see what we are voting on. The recitation of them, the mere recitation of them by the clerk is not distinctly informing. We don't know which rule is referred to, and I would ask for a separate vote on each rule. Unless it can be made a special order for to-morrow morning, I do not see how we can vote intelligently on them. I move that it be made a special order for to-morrow.

Mr. J. L. O'Brian — Mr. President, I am sure there is no objection to that suggestion except for this, that two of these proposed resolutions affect existing rules and committees, and it is the intention of the President to nominate the committees to-night in case the committees are decided upon by this house.

I would, therefore, ask the gentleman if he would consent that two of these resolutions be voted on now. These two are the first of the resolutions which provide that the Committee, No. 7, under Rule 15, be subdivided and a new Committee on Taxation, to consist of seventeen members be created.

Mr. Quigg — Certainly.

Mr. J. L. O'Brian — I think that is obvious. And the other resolution, I suggest to have it go on, is the first subdivision 15 of the Bill of Rights, be amended to read the Committee on the Bill of Rights. Have you any objection to these resolutions being submitted?

Mr. Quigg — None at all.

Mr. J. L. O'Brian — And the other two to-morrow morning.

The President — Is there any other objection to this disposition?

Mr. Sheehan — I think Mr. O'Brian overlooks the fact that, under the rules as agreed upon to-day by the Committee on Rules, there are two or three other committees created, and if the President is to announce the appointments to these committees, they also ought to be included in the recommendation that that part of it also be adopted.

The President — The Chair will say that those other committees have already been acted upon last week.

The President — The question is, then, on the adoption of that part of the report of the committee which relates to changing the name of No. 1, the Bill of Rights, which creates a separate Committee on Taxation. Are you ready for the question? All in favor of that part of the report say Aye, contrary No.

The resolution is agreed to, and without objection, the remainder of the report will stand over in special order for to-morrow morning.

Mr. Brackett — I would suggest that this Rule 3, to which my attention has been particularly called, be laid on the table with a view of calling it up later, any time after the middle of May. I have no question but that at some time during the proceedings of the Convention, it will be advisable to fix a time beyond which overtures or amendments cannot be offered from the floor of the House; but I do not believe that we have yet seen far enough into the work of the Convention, that we ought here to-night or to-morrow to tie our hands to the arbitrary rule that no amendments may be offered after the first of June. Even if that time is to be the time that is finally fixed, it ought not yet to be done because we are acting too much in the dark and I suggest with respect to that rule — and if it meets with general consent, I will make the motion that that rule lie on the table and be made a special order on the Monday night preceding the 20th of May. I have

observed that when a rule of that kind is adopted it is a very difficult thing to modify or repeal it. I have in mind the effect of a rule of that kind by the committee on rules in the Assembly. You are tying your hands so that you cannot, however great the necessity may be, thereafter modify it without unanimous consent. I do not want to prevent the adoption of the rule, nor to prevent the adoption of the rule to take effect on the first of June if when we have gotten into the work of the Convention it shall seem that that is the proper time but I do not believe that to-night we are sufficiently advised so that we ought to adopt that rule.

Mr. O'Brian — Mr. President, do I understand that the motion was made by the gentleman from Saratoga?

Mr. Brackett — I will make that motion.

Mr. O'Brian — There is certainly no desire on the part of the Committee on Rules to make any rule which would hamper the work of this Convention. The idea which they had in mind in suggesting this rule, which was proposed by the President of the Convention, was this: there are throughout the State a very large number of people who desire to have matters passed upon by the Constitutional Convention — people I mean who are not members of this Convention. There are organizations interested in various matters which will come before this Convention. Your committee thought it wise to name a day as soon as possible after which amendments would not be offered from the floor of the Convention so that not only should the members have notice of that fact but the State at large would be apprised of the fact that after the first of June in the ordinary course amendments were not to be offered from the floor.

The feeling of the committee further was that if when the time comes toward the first of June — if it is apparent to the majority of this Convention that that date is too early then it may readily be extended, provided a majority vote to do so. The subject is an important one but the committee felt that the best interests of the Convention would be served by fixing at this time a date such as is fixed by this rule. I think this rule will not work any injustice, either to the members of the Convention or any one else, for the reason that after the first of June it is open to any member to have his proposed constitutional amendment submitted to any committee and if the committee thinks well of it, the committee may report upon it. or, if he prefers he may follow the course of moving that the President appoint a selected committee, of say five, for the purpose of considering that amendment.

This date of June first was fixed simply and solely for the purpose of setting some date prior to which the great bulk of amendments are to be submitted. It was offered simply in the interest

of efficiency in the work of this Convention and I trust that the gentleman from Saratoga will not make a motion to lay this on the table but will permit it to go over until to-morrow morning as a part of the special order to be then debated at length, if such course seems desirable.

Mr. Brackett — I have not the slightest objection to its being considered to-morrow rather than to-night because the motion will of course be then made and in the meantime the members of the Convention will have had an opportunity to consider it. But I do warn the members of the Convention that, having once debated this resolution they will find the greatest difficulty in thereafter having the time extended. To reiterate, while I recognize the propriety of having a time fixed and at present I presume that the first of June will be an entirely satisfactory time, we ought not to fix it so long in advance before we know the actual conditions of the work of this Convention when the middle of May shall arrive. I therefore withdraw my motion in order that we may make it a special order to-morrow.

The President — The question is on the motion of the delegate from Columbia that the remainder of the report of the Committee on Rules be made a special order to-morrow morning. All in favor of that motion will say Aye —

Mr. Quigg — Will the rules be printed to-night so that we can have them early in the morning?

The President — They will be in the record available to-morrow morning.

Mr. Quigg — My proposition was not exactly to consider them to-morrow morning. I think we ought to have a chance — in other words I shall move that we meet at eleven o'clock to-morrow morning so that those of us who want to read the rules may come here at ten o'clock and look them over, if that would be agreeable to the committee in charge of Rules. I think, in other words, we ought to have some chance to read these rules over. We have already the rules as they now exist. Now the Committee has brought in these changes and we ought to have a chance to look at them before we vote on them, so that if we can meet at eleven o'clock in the morning, those who are interested in the matter can come here and read the record.

The President — What is the form of the motion which Mr. Quigg now desires to make?

Mr. Quigg — My motion is that when we adjourn to-night, we adjourn to meet to-morrow at eleven o'clock and that the rules be printed and be on the tables here at ten o'clock.

The President — That the rules be made a special order?

Mr. Quigg — Yes, sir. I thought we had adopted that.

The President — The Chair was in the midst of putting the question on that motion. The Chair will restate the question and will then put the further motion of the delegate from Columbia. The motion is that the remainder of the report of the Committee on Rules be made a special order for to-morrow. All in favor will say Aye, contrary No. It is carried.

The delegate from Columbia now moves that when this Convention adjourns, it adjourn until eleven o'clock to-morrow, and that the amendments to the rules reported by the Committee on Rules be printed and upon the delegates' desks at ten o'clock for the inspection of the delegates. All in favor of that motion will say Aye, contrary No. The motion is agreed to.

Mr. J. S. Phillips — The Committee on Minor Offices submits the following report, accompanied by a resolution.

REPORT OF COMMITTEE ON MINOR OFFICES

Pursuant to resolution of the Constitutional Convention adopted April 6, 1915, your Committee submits the following nominations for such officers, employees and assistants as have been declared by resolution of the Convention to be necessary and have not been heretofore elected or appointed.

NOMINATIONS

Assistant Secretaries — Fred W. Hammond, E. W. Moses, William K. Mansfield, Almeth W. Hoff.

Postmaster — James Underwood.

General Clerks — C. Hamilton Cook, Albert E. Wellman, John L. Miller, Frank Hamer, George Henry, Charles Frieman, Charles H. Gardner, Truman C. Bossard.

Doorkeepers — Michael Kehoe, W. W. Pulver, Nathan B. Sherrill, John J. Brown.

Janitor — Major R. Poole.

Assistant Janitor — Abraham Taylor.

Messengers — James Hoey, Lee V. Gardner, Walter Bayard, Victor Adams, Allen Sweet, Otto Werner, Benjamin Kaiser, Herman J. Norton, W. C. Hyde, George W. Van Hynning.

Pages — Ralph Somerville, Purcell Mattimore, Walter Burt, Harry Inglis, Harold McDona'd, Wesley Ostrander, John Hefferman, James Toomey, Joseph Allen, Fred W. Walsh.

Your Committee begs leave to further report that after careful study and investigation it has come to the conclusion that the clerical force above provided for is entirely inadequate for the proper and efficient conduct of the work of the Convention, and

therefore recommends that your Committee be empowered to further inquire into the matter and to submit a supplemental report as to what additional places, if any, should be created, and the compensation therefor.

JESSE S. PHILLIPS,
FREDERICK C. TANNER,
FERRIS J. MEIGS,
HAROLD J. HINMAN,
ANDREW T. TUCK,
EDGAR M. DOUGHTY,
Committee.

Resolved, That the report of the Committee on Minor Offices be adopted and that the Committee be continued for the purposes recommended in the report.

Mr. J. S. Phillips — Mr. President, I move the adoption of the report and the resolution.

The President — Are you ready for the question upon the adoption of the report of the Committee? All in favor of the adoption of the report of the Committee and the resolution providing for the appointment of minor officers and employees named therein say Aye, contrary No.

The report is adopted and the minor officers and employees named in the report are appointed under the provisions of the resolution.

Mr. J. S. Phillips — Mr. President, that, as I understand it, simply adopts the recommendations of the Committee, and the Committee thought best to have an additional resolution, since the report is adopted, specifically providing that these men be elected to these offices, and I therefore offer the following resolution.

The Secretary — Resolved, That the following named persons be and they hereby are elected to the positions indicated below and that their compensation pursuant to resolution heretofore adopted be fixed at the amounts set opposite their names, respectively:

Assistant Secretaries — Fred W. Hammond, \$2,500.00; E. W. Moses, \$2,500.00; William K. Mansfield, \$2,500.00; Almeth W. Hoff, \$2,500.00.

Postmaster — James Underwood, \$6.00 per day.

General Clerks — C. Hamilton Cook, \$5.00 per day; Albert E. Wellman, \$5.00 per day; John L. Miller, \$5.00 per day; Frank Hamer, \$5.00 per day; George Henry, \$5.00 per day; Charles Frieman, \$5.00 per day; Charles H. Gardner, \$5.00 per day; Truman C. Bossard, \$5.00 per day.

Doorkeepers — Michael Kehoe, \$5.00 per day; W. W. Pulver, \$5.00 per day; Nathan B. Sherrill, \$5.00 per day; John J. Brown, \$5.00 per day.

Janitor — Major R. Poole, \$5.00 per day.

Assistant Janitor — Abraham Taylor, \$5.00 per day.

Messengers — James Hoey, \$3.00 per day; Lee V. Gardner, \$3.00 per day; Walter Bayard, \$3.00 per day; Victor Adams, \$3.00 per day; Allen Sweet, \$3.00 per day; Otto Werner, \$3.00 per day; Benjamin Kaiser, \$3.00 per day; Herman J. Norton, \$3.00 per day; W. C. Hyde, \$3.00 per day; George W. Van Hynning, \$3.00 per day.

Pages — Ralph Somerville, \$2.00 per day; Purcell Mattimore, \$2.00 per day; Walter Burt, \$2.00 per day; Harry Inglis, \$2.00 per day; Harold McDonald, \$2.00 per day; Wesley Ostrander, \$2.00 per day; John Heffernan, \$2.00 per day; James Toomey, \$2.00 per day; Joseph Allen, \$2.00 per day; Fred W. Walsh, \$2.00 per day.

The President — Are there any remarks upon the resolution? All in favor of the motion say Aye, contrary No.

The resolution is adopted.

The President announced the appointment of the following Committees:

1. Preamble and Bill of Rights. Mr. Marshall, Chairman; Mr. Reeves, Mr. Olcott, Mr. Schurman, Mr. Vanderlyn, Mr. Bunce, Mr. Curran, Mr. Morgan J. O'Brien, Mr. Weed, Mr. F. Martin, Mr. O'Connor.

2. The Legislature, Its Organization, Etc. Mr. Brackett, Chairman; Mr. M. Saxe, Mr. Quigg, Mr. Lindsay, Mr. Aiken, Mr. R. B. Smith, Mr. Ford, Mr. Kirby, Mr. Linde, Mr. Buxbaum, Mr. Dennis, Mr. Tierney, Mr. A. E. Smith, Mr. Ahearn, Mr. Haffen, Mr. Bernstein, Mr. Burkan.

3. Legislative Powers. Mr. Barnes, Chairman; Mr. Jesse S. Phillips, Mr. Schurman, Mr. Wadsworth, Mr. Brackett, Mr. Olcott, Mr. Tanner, Mr. Hinman, Mr. Bockes, Mr. Wheeler, Mr. Tuck, Mr. L. M. Martin, Mr. Sheehan, Mr. J. G. Saxe, Mr. Foley, Mr. A. E. Smith, Mr. Ahearn.

4. Suffrage. Mr. Cullinan, Chairman; Mr. Stowell, Mr. Waterman, Mr. Nye, Mr. Owen, Mr. Eggleston, Mr. C. J. White, Mr. Mealey, Mr. Baumes, Mr. R. E. Weber, Mr. Williams, Mr. J. G. Saxe, Mr. Dooling, Mr. Newburger, Mr. Frank, Mr. Eisner, Mr. Kirk.

5. Governor and Other State Officers, Etc. Mr. Tanner, Chairman; Mr. Rhees, Mr. E. N. Smith, Mr. Stimson, Mr. Cullinan, Mr. Hale, Mr. Franchot, Mr. Bockes, Mr. C. Nicoll, Mr. Pelleureau, Mr. Angell, Mr. Baves, Mr. Blauvelt, Mr. Dykman, Mr. Baldwin, Mr. F. Martin, Mr. Donnelly.

6. Judiciary. Mr. Wickersham, Chairman; Mr. Brackett, Mr. Marshall, Mr. Gladding, Mr. Stimson, Mr. Clearwater, Mr. Rodenbeck, Mr. Dunmore, Mr. Steinbrink, Mr. Sears, Mr. Cobb, Mr. Delancey Nicoll, Mr. Stanchfield, Mr. Sheehan, Mr. Charles H. Young, Mr. Dykman, Mr. Wagner.

7. State Finances and Revenues. Mr. Stimson, Chairman; Mr. Hinman, Mr. Low, Mr. Pelletreau, Mr. Parsons, Mr. Lincoln, Mr. Lennox, Mr. Van Ness, Mr. Austin, Mr. Beach, Mr. Bannister, Mr. Dick, Mr. Wagner, Mr. Potter, Mr. Stanchfield, Mr. Delancey Nicoll, Mr. Slevin.

8. Cities. Mr. Low, Chairman; Mr. John Lord O'Brian, Mr. Berri, Mr. Fobes, Mr. E. N. Smith, Mr. Latson, Mr. Green, Mr. Wiggins, Mr. Franchot, Mr. V. M. Allen, Mr. Sanders, Mr. C. Nicoll, Mr. Foley, Mr. T. F. Smith, Mr. Baldwin, Mr. Weed, Mr. Shipman.

9. Canals. Mr. Clinton, Chairman; Mr. Cullinan, Mr. Landreth, Mr. Tuck, Mr. Lindsay, Mr. Wiggins, Mr. R. B. Smith, Mr. Green, Mr. Fogarty, Mr. Griffin, Mr. O'Connor.

10. Public Utilities. Mr. Hale, Chairman; Mr. Olcott, Mr. Westwood, Mr. Brenner, Mr. Mandeville, Mr. Deyo, Mr. Reeves, Mr. Nye, Mr. Sanders, Mr. Fancher, Mr. Kirby, Mr. Mathewson, Mr. McLean, Mr. Potter, Mr. Blauvelt, Mr. Foley, Mr. Dooling.

11. Counties, Towns and Villages, Their Organizations, Government, Etc. Mr. John Lord O'Brian, Chairman; Mr. Sharpe, Mr. Coles, Mr. F. L. Young, Mr. Quigg, Mr. Parmenter, Mr. Vanderlyn, Mr. Johnson, Mr. Heaton, Mr. Betts, Mr. Lincoln, Mr. L. M. Martin, Mr. Slevin, Mr. Donnelly, Mr. C. A. Webber, Mr. Schoonhut, Mr. Eppig.

12. Towns and Villages Officers. Mr. Mereness, Chairman; Mr. Tuck, Mr. Ryder, Mr. Rosch, Mr. Standart, Mr. Greff, Mr. Ford, Mr. Barrett, Mr. Linde, Mr. Parker, Mr. Buxbaum, Mr. Haffen, Mr. Daly, Mr. Wafer, Mr. Endres, Mr. Bernstein, Mr. J. J. White.

13. Prisons, Etc., and the Prevention and Punishment of Crime. Mr. Clearwater, Chairman; Mr. Ostrander, Mr. McKinney, Mr. Owen, Mr. Bell, Mr. Winslow, Mr. Adams, Mr. Drummond, Mr. Leitner, Mr. Daly, Mr. Harawitz.

14. Corporations. Mr. Brenner, Chairman; Mr. Fancher, Mr. McKean, Mr. Wood, Mr. Doughty, Mr. Gladding, Mr. Bunce, Mr. Adams, Mr. Rosch, Mr. Jones, Mr. Williams, Mr. Law, Mr. Frank, Mr. Kirk, Mr. Mann, Mr. Donovan, Mr. Heyman.

15. Banking and Insurance. Mr. Fobes, Chairman; Mr. Beach, Mr. Jesse Phillips, Mr. Wheeler, Mr. Leggett, Mr. Van Ness, Mr. McKean, Mr. Richards, Mr. Mulry, Mr. Ryan, Mr. Harawitz.

16. Militia and Military Affairs. Mr. Latson, Chairman; Mr. Westwood, Mr. Dennis, Mr. Parker, Mr. McLean, Mr. Griffin, Mr. Byrne.

17. Education. Mr. Schurman, Chairman; Mr. Clearwater, Mr. Vanderlyn, Mr. Sargent, Mr. S. K. Phillips, Mr. Mandeville, Mr. Ryder, Mr. Mealy, Mr. Lennox, Mr. Law, Mr. Baumes, Mr. McKinney, Mr. Shipman, Mr. Potter, Mr. Ward, Mr. J. J. White, Mr. Donovan.

18. Charities. Mr. Wadsworth, Chairman; Mr. Stowell, Mr. Waterman, Mr. Parmenter, Mr. Johnson, Mr. Wiggins, Mr. Doughty, Mr. Wood, Mr. Sargent, Mr. Bell, Mr. F. C. Allen, Mr. Mulry, Mr. Leitner, Mr. Drummond, Mr. T. F. Smith, Mr. Newburger, Mr. Eisner.

19. Industrial Interests and Relations. Mr. Parsons, Chairman; Mr. Low, Mr. Curran, Mr. Berri, Mr. Parmenter, Mr. Franchot, Mr. Mandeville, Mr. Eggleston, Mr. C. Nicoll, Mr. Jones, Mr. Leggett, Mr. R. E. Weber, Mr. O'Connor, Mr. A. E. Smith, Mr. Fogarty, Mr. Dahm, Mr. Unger.

20. Conservation of Natural Resources. Mr. Dow, Chairman; Mr. E. N. Smith, Mr. Clinton, Mr. Marshall, Mr. Whipple, Mr. Rhees, Mr. Landreth, Mr. Meigs, Mr. Austin, Mr. Bannister, Mr. Angell, Mr. Dunlap, Mr. Baldwin, Mr. Morgan J. O'Brien, Mr. Leary, Mr. Blauvelt, Mr. J. G. Saxe.

21. Relations to the Indians. Mr. Lindsay, Chairman; Mr. Whipple, Mr. Meigs, Mr. R. B. Smith, Mr. Shipman, Mr. Schoonhut, Mr. Endres.

22. Future Amendments and Revisions of the Constitution. Mr. Hinman, Chairman; Mr. F. L. Young, Mr. Sharpe, Mr. Heaton, Mr. C. J. White, Mr. F. Martin, Mr. Ward.

23. Revision and Engrossment. Mr. Rodenbeck, Chairman; Mr. Quigg, Mr. Ostrander, Mr. Betts, Mr. Bayes, Mr. Newburger, Mr. Leary.

24. Privileges and Elections. Mr. C. H. Young, Chairman; Mr. Brenner, Mr. Bunce, Mr. Cobb, Mr. Dunlap, Mr. F. C. Allen, Mr. Tierney, Mr. Richards, Mr. Burkan, Mr. Heyman, Mr. Byrne.

25. Printing. Mr. Berri, Chairman; Mr. Betts, Mr. Nixon, Mr. Mereness, Mr. Beach, Mr. McLean, Mr. Dahm.

26. Contingent Expenses. Mr. S. K. Phillips, Chairman; Mr. Fobes, Mr. Sears, Mr. Sharpe, Mr. Bell, Mr. Mulry, Mr. Dykman.

27. Rules. Mr. John Lord O'Brian, Chairman; Mr. Hale, Mr. Barnes, Mr. Parsons, Mr. Delancey Nicoll, Mr. Sheehan, Mr. Wagner.

28. Civil Service. Mr. Rhees, Chairman; Mr. S. K. Phillips, Mr. Wickersham, Mr. Dow, Mr. Dunmore, Mr. Deyo, Mr. Nixon,

Mr. Dick, Mr. Coles, Mr. McKean, Mr. Aiken, Mr. Winslow, Mr. Weed, Mr. Richards, Mr. Unger, Mr. Eisner, Mr. Mann.

29. Library and Information. Mr. Jesse S. Phillips, Chairman; Mr. Wickersham, Mr. Rodenbeck, Mr. Wood, Mr. Morgan J. O'Brien, Mr. Stanchfield, Mr. Leitner.

30. Taxation. Mr. Martin Saxe, Chairman; Mr. Ostrander, Mr. Steinbrink, Mr. Greff, Mr. Nixon, Mr. McKinney, Mr. Legget, Mr. Standart, Mr. Ryder, Mr. Barrett, Mr. Mathewson, Mr. V. M. Allen, Mr. Unger, Mr. Ryan, Mr. Eppig, Mr. C. A. Webber, Mr. Wafer.

Mr. Quigg — Mr. President, I offer the following resolution.

The Secretary — Resolved, That the Committee on Rules assign committee rooms to the several committees.

The President — All in favor of this resolution say Aye, contrary No.

The resolution is agreed to.

Mr. Sheehan — Mr. President, I offer the following resolution.

The Secretary — Resolved, That we tender to our esteemed associate, Mr. Delancey Nicoll, the profound sympathy of this body at the irreparable loss he has sustained on the death of his only daughter.

The President — All in favor of this resolution will signify it by rising. (Unanimous rising vote.)

The President — It is agreed to.

The President — Mr. Sheehan moves that the Convention do now adjourn. All in favor will say Aye.

Agreed to, and the Convention is adjourned until 11 o'clock to-morrow morning.

Whereupon, at 9:20 p. m., the Convention adjourned, to meet at the same place on the following day, April 27th, 1915, at 11 o'clock a. m.

TUESDAY, APRIL 27, 1915

The President — The Convention will please be in order.

Prayer by Rev. Roelif H. Brooks.

Prayer — Direct, oh Lord, this Convention with Thy most precious love and favor and further it with Thy continual help, that its workings may be begun, continued and ended in Thee, to the glory of Thy great name, and benefit to the State, through Jesus Christ, our Lord.

Mr. Wickersham — Mr. President, I move that reading of the Journal be suspended.

The President — Is there objection to the dispensing with the

reading of the Journal? The Chair hears none and, without objection, the reading will be dispensed with.

Presentation of memorials — Under that head come petitions, remonstrances and communications from individuals and public bodies.

Are there any memorials to be presented?

Communications from the Governor and other State officers.

Notices, motions and resolutions will be called for by districts numerically. The Secretary will call the roll of the districts. Let me say this to the Convention: The rules provide for the calling of the roll of districts for the presentation of notices, motions and resolutions, and also for the call by districts for the presentation of proposed amendments to the Constitution. It has been the practice that delegates-at-large should present such motions, etc., and such proposals for amendment as they wish to present upon the call of the district in which they respectively reside, so that upon the call of the first district, any delegate-at-large who resides in that district equally with the district delegates will present whatever matter he has.

Mr. Parsons — Mr. President, I offer the following resolution:

The Secretary — In the Constitutional Convention. Proposed resolution in regard to Woman Suffrage introduced by Mr. Parsons.

Whereas, There is to be submitted to the people at the general election this year an amendment to Section 1 of Article II of the Constitution, which amendment provides for Woman Suffrage and reads as follows:

Section 1. Resolved, if the Assembly concur, that Section 1 of Article II of the Constitution be amended to read as follows: "Section 1. Every [male] citizen of the age of 21 years, who shall have been a citizen for ninety days and an inhabitant of this State one year next preceding an election, and for the last four months a resident of the county and for the last thirty days a resident of the election district in which he *or she* may offer his *or her* vote shall be entitled to vote at such election in the election district in which he *or she* shall at the time be a resident, and not elsewhere,—"

Mr. Quigg — Is not the word "male" stricken out?

Mr. Parsons — I ask that the resolution be referred to the Committee on Suffrage. Is it necessary that it be read in full?

The President — So far as it has been read it appears to be a proposed amendment to the Constitution. If it is merely a resolution it may be referred without reading.

Mr. Parsons — It is merely a resolution. That part is a recital of the amendment passed by the Legislature in regard to it.

The President — The resolution will be referred to the Committee on Suffrage without further reading.

Mr. Brackett—I rise to a question of information, as to whether the rules do not provide that the first and second readings of the proposed amendment shall be by reading the title without reading the amendment through. That is my recollection of the rule.

The President — That is the case. First and second readings may be by title but this is not a proposed amendment but is a resolution.

Mr. Brackett — I understood the Chair to say it was a proposed amendment.

The President — The Chair was mistaken and was corrected by the gentleman from New York.

Mr. S. K. Phillips — I offer the following and I move their adoption.

The Secretary — By Mr. S. K. Phillips, of the Committee on Contingent Expenses: Resolved, That the Secretary be requested to invite the clergymen of the city of Albany in charge of the parishes to open the daily sessions of this Convention with prayer.

The President — Are you ready for the question upon the resolution? All in favor of the resolution say Aye, contrary No. The resolution is adopted.

Mr. Austin — While not certain that this is in the proper order of business, I wish to move that Delegate Hinman be excused from attendance for the balance of the week. He is worn out from his labor in the Legislature.

The President — It is under the proper order of business. All in favor of excusing Mr. Hinman for the remainder of the week say Aye, contrary No. The motion is approved, and Mr. Hinman is excused.

The President — The Secretary will read the further resolutions or recommendations contained in the report of Mr. S. K. Phillips, of the Committee on Contingent Expenses.

The Secretary — By Mr. S. K. Phillips, of the Committee on Contingent Expenses: Resolved, That the Secretary of the Convention be authorized to take over the existing telephone exchange system and employ two operators at a total expense of not to exceed six dollars and a half per day.

The President — Any remarks to be made on that resolution of the Committee? All in favor of the resolution say Aye, contrary No. The resolution is adopted.

The Secretary — By Mr. S. K. Phillips, of the Committee on Contingent Expenses: Resolved, That the Secretary of the Convention be authorized to contract with the Great Bear Spring

Water Company for the supply of drinking water, subject to the approval of the Committee on Contingent Expenses.

Mr. Brackett — I want to call the attention of the Convention to the fact that the State itself is the owner of the most magnificent and pure spring water in the world, and if the resolution should go back to the Committee on Contingent Expenses, I am very sure that they will see their way clear to use the State's own water, instead of purchasing it from some outside party or concern.

The President — Mr. Brackett moves to recommit the resolution to the Committee on Contingent Expenses.

Mr. Brackett — Mr. President, I do not wish to make light of the matter. The State Reservation Commission, which is maintained and supported by the State, upon the grounds of the State, has a pure spring water. I do not now mean mineral spring water, but a pure spring water, the purity of which is well known to the trade. If the State wishes to take advantage of that, I am sure that the Reservation Commission will be delighted to furnish the water, and I presume furnish it without any expense whatever, except simply the matter of the bottling, and perhaps not even that. But having called the attention of the Committee to it, I presume that they did not have that in mind, I am entirely content to leave the matter with whatever the Convention wishes, but to assure them that what I have said in respect to the water is absolutely and entirely true.

Mr. Bell — Mr. President, I think the Committee on Contingent Expenses has reserved to itself the right to select any water under that resolution, because the last three words are subject to the approval of the Committee on Contingent Expenses, so I do not take it that the Committee is bound to any particular water at the present time.

The President — The Chair is under the impression that this resolution would confine the Committee on Contingent Expenses to making a contract for the Great Bear spring water, and that the only way to secure reconsideration upon that subject would be by the Convention now acting either to make the selection itself, or to bring it to the attention of the Committee.

Mr. Brackett — Mr. President, would it be entirely to the satisfaction of the Committee on Contingent Expenses, because I am sure that this was an oversight on the part of the Committee, to have the matter recommitted to the Committee with the view of having the Conservation Commission communicated with as to this matter?

Mr. S. K. Phillips — Mr. President, that is perfectly agreeable to the Committee.

Mr. Brackett — Mr. President, that being so, I move the recommitment of the resolution to that Committee.

The President — All in favor of the recommitment of the resolution to the Committee on Contingent Expenses say Aye, contrary No. The motion is adopted, and the resolution is recommitted.

Mr. Wagner — Mr. President, Delegate Morgan J. O'Brien was unexpectedly called back to his home, and I ask that he be excused for the remainder of the week.

The President — All in favor of the excusing of Judge O'Brien for the remainder of the week say Aye, contrary No. Mr. O'Brien is excused.

Mr. Unger — Mr. President, I move that Delegate Andrew A. Shipman, who was unexpectedly called to his home, be excused for the balance of the day.

The President — All in favor of the excusing of Delegate Shipman for the balance of the day say Aye, contrary No. Delegate Shipman is excused.

Mr. Austin — Mr. President, I ask that Delegate William Barnes be excused from attending.

The President — All in favor of the excusing of Delegate Barnes say Aye, contrary No. Delegate Barnes is excused.

Mr. Tanner — Mr. President, I ask that Mr. Courtlandt Nicoll be excused for the balance of the week, on account of death in his family.

The President — All in favor of Mr. Courtlandt Nicoll being excused say Aye, contrary No. Mr. Nicoll is excused.

Mr. Sears — Mr. President, I ask that Mr. Clinton be excused from attending for the balance of the week after Wednesday, because of an engagement with the International Water Way Association.

The President — All in favor of excusing Mr. Clinton after Wednesday say Aye, contrary No. Mr. Clinton is excused.

Mr. C. A. Webber — Mr. President, I ask that Mr. Moses J. Wafer be excused. He is convalescing from a very serious illness, and he ought to be excused because of being unable to attend. It is indefinite as to when he will be able to be here. His illness has been very severe and of a three months' duration, and he is just able to get out, because of the complication.

The President — All those in favor of excusing Mr. Wafer indefinitely say Aye, contrary No. Mr. Wafer is excused.

Mr. Brackett — Mr. President, I have a couple of overtures for amendment to the Constitution. I understand they are now to be offered?

The President — Not yet. The order of motions and resolutions has not yet been completed.

Mr. J. S. Phillips — Mr. President, I don't know that now is the time to offer the resolution. If not I ask unanimous consent to offer the following resolution and move its adoption:

The Secretary — By Mr. J. S. Phillips: Resolved, That the following named positions be and they hereby are created and that compensation be as hereinafter stated:

Financial Clerk at a salary of \$1,500.

Assistant Financial Clerk at \$10 per day.

And be it further resolved, That each of such clerks shall before entering on the duties of his office execute an official undertaking in the sum of \$10,000.

The President — Any remarks to be made upon this resolution? All in favor of the motion will say Aye.

Mr. Weed — I supposed all those offices are in the province of the Committee, but I would like to have that referred to the Committee.

The President — I did not quite hear the remark of the gentleman. Did the Secretary get that?

Mr. J. S. Phillips — The Committee has not had sufficient time to consider what other places are necessary. It was, however, decided that it was necessary to provide for the financial positions at this session, and while this really comes from the Committee on Minor Offices it was not in the form of a report, but it was the unanimous opinion of the Committee that these places should now be created in order to select the men that they might give the bonds and perfect the organization connected with the office.

Mr. Weed — May I ask why he does not offer a report of the Committee?

Mr. J. S. Phillips — It is not in the form of a report, for the resolution which authorizes us to continue provided for one supplementary report; but we were not ready to submit that report at the present time, and thought that we would submit to the Convention the recommendation for the creation of these places by a separate resolution.

The President — The Chair is of the opinion that this is a partial report by the Committee on Minor Offices. If the Convention receives it, it receives it as a partial report from that Committee and the jurisdiction over this particular matter is invested in this Special Committee by special resolution of the Convention. The Chair understands that the delegate moves to commit to the Committee on Contingent Expenses.

Mr. Weed — I was proceeding on the assumption that it was an individual motion. Now that I understand it is a report by the Committee, of course, I have no such motion to make.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. J. S. Phillips — I offer the following resolution and move its adoption.

The Secretary — By Mr. J. S. Phillips: Resolved, That the following named persons be and they are hereby elected to the positions named below and that their compensation pursuant to resolution heretofore adopted be fixed at the amounts set opposite their names, respectively: Fred M. Bishop, Financial Clerk, \$1,500; Harry J. Henry, Assistant Financial Clerk, \$10 per day.

The President — All those in favor of the appointment of the persons named to the offices specified will say Aye, contrary No. The resolution is agreed to.

The President — Propositions for Constitutional Amendments by districts in regular order. The Secretary will call the districts. As the districts are called the delegates-at-large residing in the respective districts will present the propositions for amendment of the Constitution which they see fit to offer.

The Secretary — By Mr. Reeves: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution, in relation to a probate division of the Supreme Court and the transfer of the powers and jurisdiction of the Surrogates' Courts to such division.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Reeves: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution in relation to a land division of the Supreme Court.

The President — Committee on Judiciary.

The Secretary — By Mr. J. J. White: Proposed Constitutional Amendment.

Second reading — To amend Section 8 of Article III in relation to eligibility of members of the Legislature.

The President — Referred to the Committee on the Legislature.

The Secretary — By Mr. Sheehan: Proposed Constitutional Amendment.

Second reading — To amend Sections 2, 4, 7 and 8 of the Judiciary Article of the Constitution.

The President — Committee on Judiciary.

The Secretary — By Mr. J. G. Saxe: Proposed Constitutional Amendment.

Second reading — To amend Section 4 of Article II of the Constitution in respect to the enactment of the Election and Registration Laws.

The President — Committee on Suffrage.

The Secretary — By Mr. Parsons: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution so as to limit the application of the provision in regard to the immunity of witnesses.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Parsons: Proposed Constitutional Amendment.

Second reading — To amend Article VII of the Constitution by adding a section to prevent the use of the proceeds of indebtedness payable in more than a year for other than expenditures for objects having as long a life as that of the obligation.

The President — Committee on State Finance.

The Secretary — By Mr. Olcott: Proposed Constitutional Amendment.

Second reading — To amend Section 5 of Article VI of the Constitution by adding thereto a provision as to the court of general sessions of the peace in and for the city and county of New York.

The President — Committee on Judiciary.

The Secretary — By Mr. Unger: Proposed Constitutional Amendment.

Second reading — To amend Section 10, Article VI of the Constitution to enable judges of the Court of Appeals and justices of the Supreme Court to become candidates for public office.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Donnelly: Proposed Constitutional Amendment.

Second reading — To amend by adding a section to give power to the Legislature and Governor to require opinions of the Court of Appeals.

The President — Referred to the Committee on Judiciary.

Mr. C. H. Young — I offer the following five amendments.

The Secretary — By Mr. C. H. Young: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution, relating to the Bill of Rights.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. C. H. Young: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article VII of the State Constitution.

The President — Committee on Conservation of Natural Resources.

The Secretary — By Mr. C. H. Young: Overture to Constitutional Convention, suggesting an amendment to Section 26, Article III of the Constitution so as to read as follows:

The President — The order of business is the presentation of proposed amendments to the Constitution. The word "overture" is not known to the rules of the Convention and the title of this proposed amendment should be corrected.

Second reading — Proposed Amendment to Constitution, suggesting amendment of Section 2, Article III of the Constitution so as to read as follows:

The President — Referred to the Committee on Counties, Towns and Villages.

The President — The order of business is the presentation of Proposed Amendments to the Constitution and, unless there is objection, the title of these Proposed Amendments will be corrected accordingly.

Mr. Austin — Would it not be well to call the attention of the Convention at this time to the provisions of Rule 31, which provides that the title of each proposition for a Constitutional Amendment introduced shall state concisely its subject-matter? Many of these proposed amendments do not in any way in the title state the subject-matter, and I think the attention of the Convention should be called to that point.

The President — The question of order which is raised by Mr. Austin is well taken. The rule requires the titles of proposed amendments to state concisely the subject-matter. Some of the amendments which are sent up have no titles, and some have titles which do not in any way indicate what their contents may be; therefore, reading by title, in accordance with custom, carries very little idea of what the proposal is, and the Chair has but little guidance in making the reference. It may be that some of the references that are being made are incorrect, but of course we must not be too strict about rules which the delegates have not had opportunity to become familiar with, and I think the matter may be allowed to go with calling the attention of the delegates to this rule in the expectation that they will observe it hereafter.

The Secretary — By Mr. C. H. Young: Proposed Constitutional Amendment.

Second reading — To amend Section 14 of Article VI of the Constitution, relating to the county courts, the city court of the city of New York, and the court of general sessions in the county of New York.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. C. H. Young: Proposed Constitutional Amendment.

Second reading — To amend Article IV of the Constitution relating to a budget resolution.

The President — Referred to the Committee on State Finance.

Mr. Clearwater — I have handed up for the twenty-seventh district, the recommendation of the New York State Bar Association relative to the Sixth Article of the Constitution.

The Secretary — By Mr. Clearwater: A Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution.

The President — Referred to the Committee on the Judiciary.

Mr. Brackett — Mr. President, before reading the proposed amendment, I ask the Clerk to read the title on the inside.

The Secretary — By Mr. Brackett: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article VI of the Constitution, relating to the jurisdiction of the Supreme Court.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Brackett: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution, by adding thereto certain provisions relating to the minutes of the grand jury.

The President — Referred to the Committee on the Judiciary.

Mr. Brackett — Mr. President, I think that should go to the Committee on Bill of Rights.

The President — Referred to the Committee on Bill of Rights.

Mr. Brackett — May I make this suggestion to the Clerk? I think the first reading of the proposition and analogizing it to the proceedings of the Legislature should be a proposed amendment to the Constitution. That, I think, should constitute the first reading. Second, to amend such an article, such a section, relating to such a subject. It is not quite accomplished by reading the one, and then reading the other, but I think the full procedure is accomplished by the suggestion I make: The first is proposed amendment to the Constitution, and next the complete title which is the second reading, and which complies with the rule that the second reading shall be by the reading of the title.

The President — If there be no objection, the Secretary will conform in his reading to that system. The only reason for following the fuller form is that there is, under general parliamentary law, the right of discussion before a bill is read the second time. Any member has the right to object to the second reading and a right to discuss the merits on the second reading. That, however, is something which is very seldom availed of, and therefore unless there is objection, the proceedings can be expedited in the manner suggested by Senator Brackett.

Mr. Brackett — May I remind the Chair that the full second reading of the bill is in general orders, and that is where the discussion comes? The second reading is simply by title, unless a motion is made to refer to some other Committee, and the full second reading of the bill is in general orders, when, of course, the chief discussion of the bill usually occurs.

Mr. J. L. O'Brian — If I may offer a suggestion, Rule 32, providing for second reading of the bill, is the reading by title, before its reference.

The President — Rule 32 provides that all proposed amendments to the Constitutional Convention shall be referred to a regular Committee on second reading. The Secretary will conform himself to the suggestion made by the Chair.

Mr. Whipple — I think there is some misapprehension about the point technically made by Mr. Brackett about what the first and second reading is. Now, to illustrate: The first reading of a bill in the Legislature would be, "The People of the State of New York, represented in Senate and Assembly, do enact as follows:" That is for the first reading. The second reading, and then the title of the bill. Now, Senator Brackett has made the point here to save time that the Clerk may take advantage of letting the first reading be a resolution to amend the Constitution of the State of New York. That is the first reading. The second reading, then read the full title as expressed in the bill — a mere matter of practice with the Clerk, so that he need not read that title twice for first and second reading, and he has fully complied with your rule by so doing.

The President — The Chair has already directed the Secretary to conform with that suggestion.

Mr. Aiken — Mr. President, I offer the following:

The Secretary — By Mr. Aiken: A Proposed Amendment to the Constitution.

Second reading — To amend section 2 of Article I to provide that an agreement of three-fourths of the jury shall constitute a verdict.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Aiken: A Proposed Amendment to the Constitution.

Second reading — To amend Section 19 of Article I of the Constitution, to provide workmen's compensation for injuries or death from accident or occupational disease.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Aiken: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article I of the

Constitution in reference to actions to recover damages for injuries resulting in death.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Aiken: Proposed Constitutional Amendment.

Second reading — To amend Article IV of the Constitution so as to provide that the Governor may attend any session of the Legislature, and also to provide for a budget.

The President — Referred to the Committee on Finance.

Mr. Quigg — Mr. President, the bill that was just read, to what Committee was it referred?

The President — To the Finance Committee.

Mr. Quigg — The bill providing that the Governor might attend meetings of the Legislature?

The President — Yes.

Mr. Quigg — Should not that be referred to the Committee on the Legislature? It seemed to have two objects, and I thought of suggesting that they be separated.

The President — The proposed amendment provides for a budget, for the appointment of a board of estimate which is to introduce a budget, a general appropriation bill, with the provision that the amount shall not be increased by the Legislature, and it appeared to the Chair that that was the main proposition, and for that reason reference was made to the Committee on Finance.

The Secretary — By Mr. Aiken: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution by providing for the nomination of judges of the Court of Appeals and justices of the Supreme Court by the chief judge of the Court of Appeals.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Aiken: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article VI of the Constitution by establishing a Court of Criminal Appeals.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Aiken: Proposed Amendment to the Constitution.

Second reading — To empower the judges of the Court of Appeals and justices of the Supreme Court to adopt rules governing the practice and procedure of the courts.

The President — Referred to the Committee on Judiciary.

Mr. Parsons — Mr. President, I ask unanimous consent to address the Chair. I understand that there was a Proposed Constitutional Amendment in regard to workmen's compensation and

it was referred to the Committee on Bill of Rights. May I suggest that that be referred to the Committee on Industrial Interests and Relations?

The President — That reference will be made, if there is no objection.

Mr. Marshall — Mr. President, I understand this section is contained in Article I of the Constitution which is usually considered the Bill of Rights. It is so denominated and I thought perhaps you might confuse the operations of a committee on a single section of Article I. This section with regard to workmen's compensation was put into the Constitution in order to qualify and modify the due process clause of the Constitution which is contained in Section 6 of Article I. Necessarily, therefore, this clause with regard to workmen's compensation and its regulation must be read in connection with the due process clause of which it is simply a subdivision or amendment. The same is true also in regard to Section 18 of Article I which relates to damages for injuries causing death.

This section (19), relating to workmen's compensation, modifies that. There has been proposed here to-day an amendment to Section 18 of Article I. That has been referred to the Committee on Bill of Rights.

That section, Section 19, also modifies in one sense Section 2 of Article I with reference to trial by jury. That is also a part of the Bill of Rights, and it thus obtains that this amendment with regard to workmen's compensation by direct reference is a modification of Section 2, Article I, of Section 6 of Article I, of Section 18 of Article I; all of which are essentially a part of the Bill of Rights.

The Committee is not reaching out for jurisdiction, but there must be some definition of the powers of the Committee different from that which is indicated by its title, before there can be a severance of Section 19 from Article I and it is transferred to another Committee.

Mr. Parsons — Mr. President, may I suggest that there are many sections in the first article of the Constitution which have nothing to do with the Bill of Rights. The only section which is nominally the Bill of Rights is Section 6. The sections in regard to escheats, feudal tenures, allodial tenures, leases of agricultural lands, fines and quarters sales abolished, purchase of lands of Indians, common law and acts of the Colonial and State Legislatures; these and many sections in the first article have nothing to do with the Bill of Rights.

Now, we have a Committee on Industrial Interests and Relations. Where we have a Committee on a specific subject, I submit

that a proposed constitutional amendment which relates to that specific subject should go to that Committee.

Now, naturally a Committee of this name and nature is concerned. The subject of workmen's compensation concerns industrial relations. It concerns industrial relationships, therefore it should be referred to the Committee which specifically has to do with industrial relations.

Mr. Marshall — Mr. President, I do not desire to prolong this discussion, but if the gentleman from the seventeenth district is correct, then the powers of the Committee on Bill of Rights are very limited.

If they relate merely to Section 6 of Article I, there is quite a field which is not covered by any Committee.

I had supposed that Section 1, relating to what persons shall not be disfranchised; Section 2, relating to trials by jury; Section 3, relating to freedom of worship and religious liberty; Section 4, relating to habeas corpus; Section 5, relating to excessive bail and fines; Section 6, insofar as it relates to grand jury, as well as the bill of rights specifically so-called; Section 7, with regard to compensation for taking private property, etc.; Section 8, in regard to freedom of speech and press, and criminal prosecutions for libel; Section 9, in regard to the right to assemble and petition; and the other provisions of that section; Section 18 especially, constituted essential parts of the bill of rights, also Section 16, relating to the common law and acts of the Colonial and State Legislatures, and the sections relating to the laying down of general rules with regard to the nature of tenure, by which land is held; it would seem that all these sections relate to the bill of rights, if it relates to any subject, and it would seem, therefore, extraordinary to except from the general powers, the general jurisdiction of the Committee, that particular subject.

I again repeat that I have no particular desire that the Committee of which I have been made chairman shall deal specially with this subject, and I am only discussing this matter on the basis of general principle, in order to know what the powers of the Committee are, whether they are limited, whether they are circumscribed and limited to one section, Section 6.

Mr. Leggett — If such questions as relate to workmen's compensation are not to be referred to the Committee on Industrial Relations, then what questions should be referred to that Committee? What is that Committee for?

The President — The Chair wishes to ask Mr. Marshall if it is not true that these headings which appear in the copy of the Constitution which we have in the Delegates' Manual are not a part of the Constitution?

Mr. Marshall — Mr. President, I do not get the purport of the question.

The President — The question is, whether the headings of the sections, excessive bail and fines, grand jury, bill of rights, compensation for the taking of private property and so forth, are any part of the Constitution.

Mr. Marshall — I think not, specifically.

The President — That is my recollection, that they were introduced by some editor who was endeavoring to make it easy to find things.

Mr. Marshall — Yes, that is correct.

The President — The Chair does not think that this heading before Section 6 of Article I, being the words “grand jury — bill of rights,” can have any influence at all in determining this question.

The bill of rights was a much broader term than would describe the contents of Section 6 of Article I, and the jurisdiction of the Committee on Bill of Rights extends far beyond the provisions of Section 6.

It may, however, be, and certainly will be held frequently to be the case, that a proposed amendment to the Constitution will involve subjects which come logically within the jurisdiction of several different Committees. It is impossible that that should not be so. We had an example a few years ago of a proposed amendment, to which attention was called by Mr. Quigg, that pertained, part, naturally, to one Committee, and part, naturally, to another.

The same amendment may affect both the Governor and State officers and the State Legislature, and there is nothing to prevent a proposed amendment being referred to one Committee and subsequently referred for consideration from a different point of view to another Committee, so that the Convention will have before it two reports.

That would seem to be the case here. In one aspect, workmen's compensation would be under the jurisdiction of the Committee on Industrial Interests and Relations. In another aspect, the provision for workmen's compensation may materially affect a provision of the bill of rights, so called, and properly be referred to that Committee.

The Chair is of the opinion, as there is a special committee, a standing committee with special jurisdiction over industrial relations, that, in the first instance at all events, this proposed amendment should be referred to that Committee.

It may be appropriate hereafter that it should be brought up for consideration from the point of view of the bill of rights, with subsequent reference to the Committee on Bill of Rights.

Of course, the question is subject to the opinion of the Convention, but, if there is no objection, the Chair will change the reference of this proposed amendment and make the reference to the Committee on Industrial Interests and Relations.

Mr. Marshall — Mr. President, I rise at this time to ask a question of information. I would like to know to which Committee the amendment proposed by Mr. Parsons, with regard to, or to the effect that, there should be a change in the provisions of Section 6 of Article I, that no one person shall be compelled in any criminal case to be a witness against himself — to what Committee has that been referred?

Mr. Parsons — Referred to the Committee on Bill of Rights.

Mr. Marshall — I did not get the reference.

The President — The Chair is advised that is referred to the Committee on Bill of Rights.

Mr. Betts — Mr. President, I offer the following proposed amendments.

The Secretary — By Mr. Betts: Proposed amendment to the Constitution.

Second reading — To amend Section 5 of Article I of the Constitution.

The President — Referred to the Committee on Bill of Rights.

Mr. Whipple — I offer the following proposed amendment.

The Secretary — By Mr. Whipple: Proposed Amendment to the Constitution.

Second reading — To amend Section 7, Article VII, of the Constitution, relating to the Forest Preserve, relating to dead timber, roads, trails and camp-sites, and to the Commissioner of the Conservation Commission.

The President — Referred to the Committee on Conservation of Natural Resources.

Reports of standing committees.

Mr. Quigg — Does that bring up the report of the Committee on Rules which is a special order?

The President — No, that comes under a subsequent order of business, special order.

Reports of select committees.

Third reading of Proposed Constitutional Amendments. There can be none.

Unfinished business of general orders. }

Mr. J. L. O'Brian — Under special orders to-day we have the resolutions and the report offered last night by the Committee on Rules. Part of that report was adopted last evening. Four proposed resolutions of the Committee on Rules were not adopted, but were laid over until this morning.

I ask that those four resolutions which were not disposed of last night, being numbers 3, 4, 5 and 6, as shown on pages 40 and 41 of the Record, be considered separately this morning. Is there any objection to that, Mr. President?

The President — The Chair is of the opinion that the delegates are entitled to that division. The first question will arise upon resolution number three by Mr. Sheehan.

Mr. J. L. O'Brian — Mr. President, the reasons for the recommendation of that resolution being obvious from the printed matter, I recommend the adoption of resolution number three by Mr. Sheehan.

The President — Are you ready for the question upon that recommendation? All in favor of the recommendation say Aye, contrary No. The recommendation is agreed to.

Mr. J. L. O'Brian — Mr. President, I now move that the recommendation of the committee relating to resolution number four by Mr. Buxbaum, be adopted.

The President — The Secretary will read the resolution.

The Secretary — By Mr. Buxbaum: The members of former constitutional conventions shall be entitled to admission to the floor of the Convention during the sessions thereof. Upon this the Committee reports favorably and recommends the adoption of the following resolution:

Resolved, That Rule 54 be amended by inserting after subdivision 2, the following words: "3. Members of former constitutional conventions" and that the remaining subdivisions of the rule be renumbered accordingly.

The President — Are you ready for the question upon that rule? All in favor of the rule say Aye, contrary No. The resolution is agreed to.

Mr. J. L. O'Brian — Mr. President, referring now to Resolution No. 5 contained in this report, I am satisfied that with an opportunity for a greater familiarity with the rules which have been adopted there will be no difficulty in reaching an agreement on the subject matter of this resolution.

In order that the delegates may have time to go over the rules and give this particular subject particular attention, I move that this rule be laid on the table and I give notice that I will hereafter call it up on due notice to this House.

The President — Is there any objection to the resolution lying on the table? The Chair hearing no objection, it is so ordered.

Mr. J. L. O'Brian — Mr. President, I now move the adoption of the recommendation of the Committee referring to Resolution No. 6, offered by Mr. Hale, and I move the adoption of that resolution.

The President — Are you ready for the question? All those in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Mr. J. L. O'Brian — Mr. President, from the Committee on Rules I offer the following resolution.

The Secretary — By Mr. O'Brian, from the Committee on Rules.

Resolved, That until further ordered the Convention meet at 10 o'clock a. m. Tuesdays, Wednesdays, Thursdays and Fridays, and that all committees have leave to sit notwithstanding the session of the Convention at and after 11 a. m. of each day.

The President — Any remarks to be made on the resolution? All those in favor say Aye, contrary No. The resolution is agreed to.

Mr. Quigg — Mr. President, is it proper now to make a suggestion, that these rules be printed immediately and laid upon our desks to-night, so that we do not have to consult one source and another before we find out what the rules are? I make that motion.

The President — Mr. Quigg moves that the rules be printed as a document and distributed to the members of the Convention. All in favor of that motion will say Aye, contrary No. The motion is agreed to.

Mr. Harawitz — Does that mean all the rules or simply the amended rules?

The President — That means all the rules. The Chair will call attention to the fact that the rules which were the basis of the action of the Convention were the final rules of the last Convention as they appear in the fifth volume, while the rules which are in the Manual were an earlier form of the rules of the last Convention, varying somewhat from the final form, so that there are some differences. The Chair hands down a report to the Convention from the State Printing Board, which the Secretary will read.

The Secretary — To the Constitutional Convention:

Gentlemen — Acting in accordance with your resolution, dated April 7, 1915, authorizing the State Printing Board to execute a contract for the printing of the journals, documents, and proceedings of the Constitutional Convention, pursuant to the recommendation of the Committee (of the Convention) on Printing, in their report made April 7, 1915, we, the undersigned, composing the State Printing Board, beg leave to report that on the 22d day of April, 1915, we executed the contract with J. B. Lyon Company for the printing of the journals, documents and proceedings of the Convention recommended by said Committee, as required by said

resolution; that said contract is in form as recommended by the report of said Committee and required by the said resolution of the Committee; that one duplicate original of said contract, executed by J. B. Lyon Company and by the State Printing Board, has been filed with the Comptroller of the State, indorsed with his approval as required by Section 16 of the Finance Law, and a duplicate original of said contract, as executed, is annexed hereto and submitted herewith, except that the exhibits appended thereto are copies of the originals of those attached to the contract filed with the Comptroller.

That upon the execution of said contract, and bearing even date therewith, the said J. B. Lyon Company executed to the People of the State its bond in the penal sum of \$25,000 with the Fidelity and Deposit Company of Baltimore, Maryland, as surety, conditioned for the faithful performance of its said contract, which bond was approved by the Comptroller, and as to form by the Attorney-General, and the same has been filed with the Comptroller as required by law.

All of which is respectfully submitted.

Dated April 23, 1915.

FRANCIS M. HUGO,
Secretary of State.

EUGENE M. TRAVIS,
State Comptroller.

EGBURT E. WOODBURY,
Attorney-General.

Composing the State Printing Board.

The President — Unless there is objection, this report and the appended documents will be printed as a Convention document. The Chair hears no objection and it is so ordered.

Mr. Parsons — Does that include the full contract, that of printing?

The President — That includes the contract.

Mr. Lindsay — In the Record of our first session, my name does not appear as having been called or quoted on any vote taken. I wish it to appear that I was present and voted for the Chairman, Mr. Root, and for Mr. Marshall. I apprehend the mistake occurred because Mr. Linde, whose name precedes mine, is similar to mine, and the Secretary had not become familiar with the two names. They sound much the same.

The President — What is the correction?

Mr. Lindsay — On the vote for President, the name of Mr. Lindsay does not appear as having voted. I was present and voted.

The President — If the delegate was present and voted, and there be no objection, the Journal will be corrected accordingly.

Mr. J. S. Phillips — Mr. President, I ask unanimous consent to move that Mr. Clearwater, a delegate from the Twenty-seventh District, be excused for the balance of the week, on account of pressing business engagements.

The President — All those in favor of the motion will say Aye, contrary No. The Chair wishes to make two or three announcements. The Secretary wishes the announcement to be made that several of the delegates have not yet applied for and received their supply of stationery. If they will call at the Secretary's office, after to-day's session, and leave orders for the disposal of their supplies, it will expedite the Secretary's work.

The Committee on Rules wishes an announcement made that it desires a conference with the Committee on Printing. The Chair calls the attention of the delegate from Brooklyn, Mr. Berri, to the fact that the Committee on Rules desires a conference with the Committee on Printing immediately after adjournment this morning, in the President's room. I would say that that is with reference to the number of copies which should be printed of the proceedings and debates and reports and documents. There are very great numbers of applications coming in to the Secretary and officers of the Convention, and it is evident that there is a much greater interest in the proceedings of the Convention and a much greater desire for information than has been the case with previous Conventions.

The Committee on Rules also wishes the Chair to announce a conference with committees as to committee clerks, stenographers and committee-rooms. The Committee on Rules will be glad to have the Chairmen of the several committees, accompanied by any other members of the committees who may desire to take part informally, call upon the committee at the President's room immediately after luncheon this afternoon, for the purpose of arranging, in accordance with the directions of the Convention, as to clerks, stenographers and rooms for the committees. It is not the idea to have any formal meeting, but to confer informally, individually, upon these subjects.

A conference with the Committee on Printing is desired immediately on our adjournment now. A series of conferences with the different committees, with their Chairmen, and with any other members, will be had this afternoon, at the President's room, meeting at, say, half past two o'clock.

The Chair hands down the designation of the names of persons who are to act as reporters for the public press, to be admitted to the floor, and entitled to seats, in pursuance of Rule 7. This is a list which has been prepared by the representatives of the press here.

Is there any further business to come before the Convention?

Mr. Schurman — I move that the Convention do now adjourn.

The President — Mr. Schurman moves that the Convention do now adjourn, which will be until 10 o'clock to-morrow, under the rule that has been adopted. All in favor of the motion will say Aye, contrary No. Motion carried, and the Convention stands adjourned until that hour to-morrow.

Whereupon, at 12:35 p. m., the Convention adjourned to meet at 10 o'clock a. m., Wednesday, April 28, 1915.

WEDNESDAY, APRIL 28, 1915

The President — The Convention will please be in order.

Prayer by the Rev. J. Addison Jones — Let us pray. Almighty God, Fountain of Light and Author of our Salvation, help us to bring to Thee at this morning hour, some worthy tribute of our heart's gratitude, for the multitude of Thy mercies unto us. In loving kindness, Thou hast written Thy name over all our lives. We bless Thee for health of body, for gifts of mind, for the beneficent and enriching influences of home and friendship, for our daily bread and the daily opportunity to use our forces and faculties for the service of our generation.

We give Thee most hearty thanks for the fair land in which our lot is cast, for the prosperity and peace that prevail within our borders. Truly our lines are fallen into pleasant places, and we have a goodly heritage. Endow us with wisdom, we beseech Thee, and bless us with the sacrificial sense, to the end that we may serve the institutions purchased at so great a cost by our fathers, and that we may pass on to posterity a nation strong in the fear of the Lord and in the love and practice of that righteousness which is the only sure guarantee of the national virtue and permanence.

We invoke Thy favor upon the members of this Convention here assembled. Grant that with wise deliberation and due diligence they may do the work assigned unto them, and that the records and resolutions may redound to the lasting good and glory of our Commonwealth.

Particularly we would invoke Thy favor and Thy consoling grace this morning in behalf of that member of this Convention now passing through the experience of sad bereavement and irreparable loss. Grant the consolations of heavenly grace unto him and unto the members of his family that in this hour of their trial they may not faint or fall but may find in Thee their refuge and their strength.

Grant answers to these, our petitions, we beseech Thee, for Thy Mercy's sake, Amen.

The President — The Secretary will read the Journal of yesterday's proceedings.

Mr. Wickersham — Mr. President, I move that the reading of the Journal be suspended.

The President — It is moved that the reading of the Journal be suspended. All in favor of this motion say Aye, contrary No. The motion is carried.

Presentation of memorials — Under this head come petitions, remonstrances and communications from individuals and public bodies.

Communications from the Governor and other State officers.

Notices, motions and resolutions will be called for by districts numerically.

Mr. Griffin — I offer the following resolution:

The Secretary — State of New York. In Convention. Proposed —

The President — The Clerk advises the Chair that the paper sent up is a Proposed Amendment to the Constitution.

Mr. Griffin — Pardon me. I was not in the chamber when the announcement was made. I thought we were on the order of proposed amendments.

The President — That will be laid aside until the order of proposed amendments is reached.

Mr. Wiggins — I offer the following resolution and move that it be referred to the proper committee.

The Secretary — By Mr. Wiggins: Resolved, That the Clerk of this Convention be directed to procure from the clerk of the Court of Appeals the following information:

1. The number of criminal appeals presented to the court during each of the past five years up to January 1, 1915.

2. The number of cases on appeal filed with the court pursuant to subdivision 1 of Section 190 of the Code of Civil Procedure during each of the past five years.

3. The number of cases on appeal filed with the court pursuant to subdivision 2 of Section 190 of the Code of Civil Procedure during each of the past five years.

4. The number of cases on appeal filed with the court pursuant to subdivision 1 of Section 191 of the Code of Civil Procedure during each of the past five years.

5. The number of cases on appeal filed with the court in which the decision of the Appellate Division was unanimous.

6. The total number of cases on appeal which have been placed upon the calendar but not reached for argument on the 1st of January of each year during the past five years.

The President — The resolution will be referred to the Committee on Library and Information.

Propositions for constitutional amendments, by districts, in numerical order.

Mr. Steinbrink — Mr. President, I offer the following.

The Secretary — By Mr. Steinbrink: Proposed Constitutional Amendment.

Second reading — To amend Section 7, Article I, of the Constitution of the State of New York, relating to condemnation proceedings, by striking out the provision providing for the appointment of commissioners in condemnation proceedings.

The President — Referred to the Committee on Bill of Rights, I suppose, Mr. Steinbrink? Committee on Bill of Rights.

Mr. Low — Mr. President, I offer the following.

The Secretary — By Mr. Low: Proposed Constitutional Amendment.

Second reading — To amend the Constitution by inserting a new section on franchises in Article III.

The President — Referred to the Committee on Legislative Powers.

Mr. Olcott — Mr. President, I offer the following.

The Secretary — By Mr. Olcott: Proposed Constitutional Amendment.

Second reading — To amend Section 9, Article V, of the Constitution, in respect to preferences in appointments, promotions in civil service of the State, so as to prefer honorably discharged soldiers, sailors and marines, who have served as such in time of war.

The President — Referred to the Committee on Civil Service.

Mr. Richards — Mr. President.

The Secretary — By Mr. Richards: Proposed Constitutional Amendment.

Second reading — To amend Article III, Sections 2 and 6, providing for biennial sessions of the Legislature, and extending term of office of members and increasing their compensation.

The President — Referred to the Committee on Legislative Organization.

Mr. Blauvelt — Mr. President.

The Secretary — By Mr. Blauvelt: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, by adding a new section relating to highways.

The President — Public Utilities.

Mr. Wiggins — Mr. President.

The Secretary — By Mr. Wiggins: A Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 2, of the Constitution, to change the term of Assemblymen from one to two years.

The President — Referred to the Committee on Legislative Organization.

The Secretary — By Mr. Austin: A Proposed Amendment to the Constitution.

Second reading — To amend Article XIV, Section 1, of the Constitution, relating to future amendment of the Constitution by providing that no such amendment shall be passed by the Legislature until it shall have been printed and upon the desks of the members in its final form for at least five calendar legislative days prior to its passage.

The President — Referred to the Committee on Future Amendments.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend by striking therefrom the provisions in Section 13 of Article I, relating to leases and grants of agricultural lands.

The President — Referred to the Committee on Legislative Powers.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, Section 3, of the Constitution, in relation to preservation of the capital of the common school fund and the literary fund.

Mr. Austin — Mr. President, if I may be allowed to suggest to the Chair that this amendment has nothing to do with education, but has much to do with State finances.

The President — Article VIII, Section 3, relates to corporation, and definition of term.

Mr. Austin — That is not the section supposed to be amended unless there is a typographical error.

Mr. President — That must be a typographical error. The Chair will reserve the reference of this for the present.

Mr. Mereness — Mr. President, I offer the following.

The Secretary — By Mr. Mereness: Proposed Constitutional Amendment.

Second reading — To amend the Constitution, in relation to elections, counties, towns and villages.

The President — Committee on Suffrage.

Mr. R. B. Smith — Mr. President, I offer the following:

The Secretary — By Mr. R. B. Smith: Proposed Amendment, Constitutional Amendment.

Second reading — To amend Section 7 of Article VII of the Constitution, in relation to the use of the forest preserve.

The President — Committee on Conservation.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article II of the Constitution, in relation to election officers.

The President — Committee on Suffrage.

Mr. Lincoln — Mr. President, I offer the following.

The Secretary — By Mr. Lincoln: Proposed Amendment to the Constitution.

Second reading — An Amendment to Article VI, Section 13, relative to the Court for the Trial of Impeachments.

The President — Committee on Judiciary.

The amendment offered by Mr. Austin, by typographical error, was made to relate to Article VIII and it was intended to relate to Section 3 of Article IX, and unless there is some expression to the contrary the Chair will refer that to the Committee on Finances.

Mr. J. L. O'Brian — Mr. President, the Committee on Rules submits the following report and I move its adoption.

The Secretary — The Committee on Rules reports that they conferred with the various Committee chairmen and that pursuant to the resolution adopted April 26, 1915, it has assigned rooms to the several committees as follows:

1. Bill of Rights, Assembly Parlor.
2. Legislative Organization, Room 329.
3. Legislative Powers, Room 342.
4. Suffrage, Room 237.
5. Governor and Other State Officers, Room 332.
6. Judiciary, Assembly Parlor.
7. State Finances, Room 332.
8. Cities, Rooms 341-342.
9. Canals, Room 235.
10. Public Utilities, Room 344.
11. County, Town and Village Government, New Assembly Library.
12. County, Town and Village Officers, Rooms 400-401.
13. Prisons, Room 225.
14. Corporations, Room 227.
15. Banking and Insurance, Room 227.
16. Military Affairs, Room 235.
17. Education, Room 329.
18. Charities, Rooms 400-401.
19. Industrial Relations, Rooms 423-424.
20. Committee on Conservation, Assembly Parlor.

21. Relations to the Indians, Room 233.
 22. Future Amendments and Revisions, Room 341.
 23. Revision and Engrossment, Court of Claims, Court Room.
 24. Privileges and Elections, Room 229.
 25. Printing, Room 233.
 26. Contingent Expenses, Room 236.
 27. Rules, The President's Room.
 28. Civil Service, Room 344.
 29. Library and Information, Room 229.
 30. Taxation, Offices of the Tax Department.
- Mr. Vice-President Schurman, Room 226.
Mr. Vice-President M. J. O'Brien, Room 228.

The President — Are you ready for the question upon the approval of the report? All in favor of approving the report of the Committee will say Aye, contrary No. The report is agreed to and the rooms are assigned as indicated.

Mr. Brackett — May I inquire of the Chairman of the Committee on Rules whether the present rules as reported — because I have not had them upon my desk so as to have an opportunity to study them — provide for written reports of committees, including reasons for the report? The President will have in mind the distinction that I wish to call attention to as to whether simply the report shall be made as has been the custom in our own legislative bodies. While the reports are in writing they are purely formal reports on a blank, all of a similar form, and without assigning either argument or reason for any of the reports that are made. I am told — my friend from Columbia will know better about it than I because I have never had the distinguished pleasure of sitting in the halls of Congress — that at Washington written reports are made which have a compendium of the argument in favor of the report as submitted and I was anxious to inquire from the Chairman of the Committee on Rules as to which form the rules which have been presented here by that Committee prescribe.

Mr. J. L. O'Brien — It is my impression that the rules do not explicitly state — that there is no explicit statement in the rules on that subject. That is my best recollection.

Mr. Brackett — Did the Committee consider the proposition?

Mr. J. L. O'Brien — No.

Mr. Brackett — I suggest, therefore, and with the approval and consent of the Chairman of the Committee on Rules, I will offer a resolution that the Committee on Rules be requested to investigate and report on the propriety of such a report.

Mr. Parsons — Will Mr. Brackett yield for a question? Is not that a matter of custom? My recollection is that the rules of the House of Representatives do not require that the reports of committees state the reasons but it is the custom to have a compendium

of the arguments in the majority and minority reports, and I recall from my reading of the record of the Convention of twenty years ago that that custom was followed in the previous Constitutional Convention and I suppose it will be followed here.

Mr. Brackett — I think, Mr. President, that we should have a rule on the subject so that it won't be simply the whim or the lack of earnestness of the Chairman as to whether he shall report, giving a written compendium of the argument in support of the report, or not. I think this should all be one way or the other. Now, my own impression is, without ever having it tried on me, that a compendium of the argument in support of the report will tend greatly to exactitude of discussion when we come to that report in this body. And yet I have no such predilections on the subject that I want to take a decided stand on it until we have the judgment of the Committee on Rules and such other opinions as we can get from the members and therefore I do not suppose that any formal action need be taken, that a mere suggestion to the Committee on Rules will result in its careful consideration by that Committee and its recommendations one way or the other.

Mr. J. L. O'Brian — I will state in reply to the suggestion, that I will personally undertake to see that the matter is placed before the Committee on Rules and given due consideration.

Mr. Brackett — Then, if there is any motion that was entered on the minutes I withdraw it and leave it entirely to the voluntary action of that Committee.

Mr. Baldwin — May I call the attention of the members to Rule No. 19 which seems to cover the situation in question? That rule provides:

"The report of a committee upon any matter referred to it, other than a bill, may include a brief statement of the opinion of a majority and of any member or members of the committee voting in either the majority or minority." Page 164.

The President — Reports of Standing Committees?

Reports of Select Committees?

Mr. Parsons — May I inquire of Mr. Baldwin the number of the page on which the rule he referred to appears?

Mr. Baldwin — I find I was in error. I had the rules from the Assembly; I was reading from the wrong manual.

Mr. Brackett — Even if the suggestion made by the member at my left is correct, it simply is permissive. We ought to have uniformity of rule on the subject and if there is a provision finally reported and incorporated in the rules that this compendium of the reasons or of the arguments for a report shall be appended, it should be provided of course that there shall be an opportunity for including a compendium of the minority report, if any, so

that we can have the precise crux of the situation between the opposing views, to guide us in our discussion.

Mr. M. Saxe — Do I understand that the gentleman argues for this proposition only in the case where there are two reports?

Mr. Brackett — No.

Mr. M. Saxe — In all cases?

Mr. Brackett — That it should provide that in all cases the report shall have such reasons, and if there is a minority report, that that shall also have it.

The President — The Secretary advises the Chair that in the Proposed Constitutional Amendments introduced by Mr. Mereness and already reported to the Convention there was included another amendment which the Secretary did not observe. The Secretary will read that additional amendment.

The Secretary — By Mr. Mereness: Proposed Constitutional Amendment.

Second reading — Proposed Constitutional Amendment, relating to granting extra compensation and so forth.

The President — Referred to the Committee on Legislative Powers. Are there any reports of select committees?

Unfinished business?

General Orders?

Is there any further business to be brought before the Convention?

Mr. J. L. O'Brian — Mr. President, from the Committee on Rules I report the following resolution and move its adoption:

The Secretary — By Mr. O'Brian: From the Committee on Rules.

Resolved, That until further ordered the Convention meet at 12 m. on Tuesdays and at 10 a. m. on Wednesdays, Thursdays and Fridays, and that notwithstanding the sessions of the Convention all Committees have leave to sit at and after 11 a. m. on each day.

The President — Are you ready for the question on this resolution?

Mr. Schurman — May I ask for information regarding the hour proposed for meeting on Tuesday? I did not catch it.

The President — The resolution already adopted by the Convention fixes the hours of meetings at 10 a. m. on Tuesdays, Wednesdays, Thursdays and Fridays. This resolution would amend the previous resolution by changing the hour on Tuesday from 10 to 12, otherwise the resolution will remain the same. Are you ready for the question?

Mr. Byrne — Mr. President, I understand that this, being a resolution in regard to adjournment, is open for debate. Inasmuch

as we are going to change the hour on Tuesday until 12 o'clock I think it might be changed until 2 o'clock for two reasons: First, that I think it is fair to assume that the majority of the members of this Convention should partake of some midday meal. In order to do it at a reasonable hour they will have to eat before 12 o'clock. Secondly, there are a number of men from different parts of the State who cannot make connections in the morning as we of New York can, with ease, to get here. They cannot do that, and it will be necessary for them to leave their homes the night before, and it is at the suggestion of some of these men that I move an amendment so that the meeting hour on Tuesday shall be 2 o'clock instead of 12 o'clock.

Mr. Olcott — That is the very observation I was going to make, for practically the same reasons.

Mr. J. L. O'Brian — This matter was gone over informally yesterday by members of the Rules Committee at the time when a great many of the chairmen of the various committees were present and this hour of adjournment was the best judgment of all present. It is impossible to fix an hour that will satisfy every member of this Convention. If the hour is fixed at 2 o'clock for the meetings of this Convention that will interfere very seriously with Committee meetings on Tuesday afternoon and will result in what Monday now is, when the Convention sits — simply a half of a legislative day. The members from the extreme western end of the State cannot get here at 2 o'clock in the afternoon, if the hour is fixed at 2, and, speaking for some of them, I may say, that those with whom I have talked are perfectly willing to travel during the night to get here Tuesday morning. If they have to travel all morning to get here they might just as well leave the night before. While I have no set opinion on this matter this hour of 12 o'clock was agreed upon after a full conference, and, as I say, marks the best judgment of the Committee after considering all of the objections made to the hour.

Mr. Brackett — Mr. President, if you get right down and look at it in a practical way I think we may conclude that the members who go home each week — and I assume that a great number, except the few chief officers of the Convention who must be here continually, will do so — that those who go home each week can get here Tuesday morning. They will come in the night, I presume, from the distant parts of the State. The question now is, what will best conserve and will best use up the day in the work of the Convention. I think we should either have the meeting early enough in the morning so that we can get through with our work here in the Convention and then have the afternoon for our Committee meetings and for private work or else we should have

the session of the Convention far enough along in the day so that we can do our Committee work and private work in the morning.

Now that seems to me to be the practical working hour. Each one, therefore, can best determine what will suit his own convenience. I am so fortunately placed myself that I am within an hour and a quarter of this building at any time and can accommodate myself either way, but the question of the hour should be decided to accommodate those who must come a long distance. After they get here from their week-end, I don't see that it makes much difference to them — certainly not to those that are right here in the city — whether it shall be in the forenoon or in the afternoon. The only suggestion that I do urge upon those who are not familiar with the way the matter will work out is that we either start early enough in the morning so as to give a free afternoon or that we have the forenoon free and have the sessions in the afternoon.

Mr. Stimson — I sincerely hope that the hour will not be set any further back than 12 o'clock. I was rather in hopes that it would be left at the hour set in the former resolution, at 10 o'clock. I think that if it is postponed any later than 12 o'clock, it will make it impossible to hold Committee meetings in the morning. It requires the formality of a meeting of the entire Convention to get the day's work in progress. Now, I think in having allowed the matter to go over from Monday evening until Tuesday we have allowed it to go as far as the interests of the people of this State should permit. This Convention has already made great progress in the expedition of the initial steps of its organization. I think it has commended itself to the people of the State by so doing. We are perhaps a month ahead, as I understand the record, of the Convention of twenty years ago. I think it would be a great pity if we allowed our own personal convenience to virtually cut into and possibly destroy the availability of a full Tuesday of each week. I sincerely hope that it will not be adjourned to any later hour than 12 o'clock.

The President — The question is upon the amendment to the resolution, to strike out "12 a. m." and substitute "2 p. m." Are you ready for the question upon the amendment? All in favor of the amendment will say Aye, contrary No. The Noes appear to have it. The Noes have it and the amendment is not agreed to. The question is upon the resolution to fix the hour at 12 o'clock for the meeting on Tuesday morning. All in favor of the resolution will say Aye, contrary No. The Ayes appear to have it. The Ayes have it and the resolution is agreed to. Is there any further business that any delegate wishes to bring before the Convention?

Mr. Bunce — Mr. Williams of the thirty-second district desires to be excused for the balance of the week on account of important business.

The President — All in favor of excusing Mr. Williams for the balance of the week will say Aye, contrary No. The motion is agreed to.

Mr. Buxbaum — Mr. President, I understood yesterday that we were to have printed copies of the Proposed Amendments upon our desks to-day. I see none here. May I ask, Mr. President, when we may expect to have the printed copies of the rules and printed copies of the Proposed Amendments?

The President — The President is unable to reply to that. The contract, I believe, requires it. Doubtless it is the fault of the Chairman of the Committee on Printing.

Mr. J. L. O'Brian — I think the gentleman's question perhaps relates to the resolution of yesterday asking that the rules be printed and be placed on the desks this morning. It was decided by the Rules Committee that a subcommittee should go over the proof. The printers have not yet furnished the subcommittee with the proof and I assume that that will be done to-day and the rules will be printed and on the desks to-morrow.

The President — The Chair would suggest that a resolution of inquiry as to why the Convention is not furnished with the printed matter called for by the rules and the printing contract should be prepared, and that resolution be referred to the Printing Committee.

Mr. Buxbaum — Mr. Chairman, I therefore move accordingly.

Mr. Quigg — Mr. President, I don't think that anything has been contracted for to be printed as a document, except the rules, up to this time.

Mr. Wickersham — Yes, Mr. Quigg, there is to be a printed copy of the proceedings furnished.

The President — It is moved that the Printing Committee inquire into the reasons why the printed matter which should be furnished under the rules of the Convention and the printing contract has not been furnished. All those in favor say Aye, contrary No. The resolution is agreed to, and the Committee on Printing will take notice of the action of the Convention.

Mr. Brackett — Mr. President, may I ask the ranking member of the Committee on Printing present, if we are to be furnished with some literature akin to the White Book which is issued by the Legislature, that gives the list of the members, and such useful information as to where they can be found in the city of Albany, their place of residence, and such other data as would be of convenience to the members of the Convention, and the Committee

rooms, the places of meeting, and the Chairmen of the committees; perhaps a diagram of the Convention room, so that a glance will tell us where each one sits, until we get more thoroughly acquainted.

The President — Will Mr. Brackett permit the Chair to answer that question?

Mr. Brackett — Yes.

The President — The Secretary has memoranda and is now engaged in the preparation of such a book. He had to wait until to-day because the rooms had to be assigned, and he is now waiting only for the names of the clerks of the committees. I think that is the only item of information still remaining for the completion of such a book.

Mr. Wickersham — Mr. President, I move that the Convention do now adjourn until to-morrow morning, at 10 o'clock.

The President — Mr. Wickersham moves that the Convention do now adjourn until Thursday morning, April 29, 1915, at 10 o'clock. All those in favor of the motion say Aye, contrary No. The motion is carried, and the Convention stands adjourned until 10 o'clock a. m., Thursday, April 29, 1915.

Whereupon at 12 m. the Convention adjourned to meet at 10 o'clock a. m., Thursday, April 29, 1915.

THURSDAY, APRIL 29, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

Rev. Jones — Almighty God, our Heavenly Father, Thou who hast taken thought for us during the night watches, bless us, we beseech Thee, in the opportunities of this new day. In coming and in going, in labor and in rest, in care and in pleasure, grant us Thy guidance and Thy help. If we have difficult duties to discharge, or sorrows to bear, or pain to undergo, or joys to experience, grant us Thy grace that we may hold our souls steadily to the ideals of truth and righteousness. In loving mercy, pardon Thou all our transgressions, purge our hearts from all that is ignoble and unworthy, and fortify our spirits for all the events and experiences which the coming hours hold in store for us. Have all our dear ones in Thy holy keeping, and grant mercy and comfort unto all in need, in trouble, in sorrow. We invoke Thy guidance for the members of this Convention in their deliberations and utterances and enactments, and grant that this day's labor may be crowned with a generous measure of good success. Enlighten with truth and wisdom all men in high places of authority

and large influence. Dispose their minds to moderation. May the counsels of concord prevail over strife, and may a healing and lasting peace soon shed its gracious boon over all the nations of the world. For Thy great name's sake, Amen.

Mr. Wickersham — Mr. President, I move that the reading of the Journal be suspended.

The President — It is moved that the reading of the Journal be dispensed with. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Presentation of memorials, including petitions, remonstrances and communications from individuals and public bodies. Communications from the Governor and other State officers.

The President — Notices, motions and resolutions called for by districts.

Mr. Buxbaum — Mr. President, I move the following — may I be permitted to read it?

The President — Yes.

Mr. Buxbaum — Resolved, That the Committee on Minor Officers recommend to this Convention the employment of ten general stenographers, and suggest their names, to render all necessary services to the delegates in their correspondence, preparation of resolutions, petitions and proposed amendments.

Mr. Wickersham — I move that the resolution be referred to the Committee on Minor Officers.

The President — Will the gentleman send his resolution to the desk? The resolution will be referred to the Committee on Minor Officers.

Mr. Buxbaum — I move that the Committee on Minor Officers be discharged from consideration of that question and that the whole question be referred to the Committee of the Whole to consider and determine.

The President — That is not in order. It is not in order to go to the Committee of the Whole. A motion to discharge the Committee on Minor Officers from consideration of the resolution is in order if the delegate confines his motion to that.

Mr. Buxbaum — Mr. President, I intended to make the motion in that form, that the Committee on Minor Officers be discharged from further consideration of this particular resolution, and that the Convention now go into Committee of the Whole on this question.

The President — That is not in order.

Mr. Buxbaum — Then I withdraw that and move you, sir, that the Committee on Minor Officers be discharged from further consideration of that resolution.

Mr. Wickersham — And I move to lay that motion on the table.

The President — It is moved to lay the motion to discharge the Committee on the table.

Mr. Brackett — As I recall this motion, Mr. President, it is not debatable except by unanimous consent. I think the unanimous consent will be granted me a moment to explain the situation.

I was not cognizant that the motion was to be made, but I do want to explain to the members of the Convention the situation of affairs and I presume I have been asked to do it because I have not the slightest personal interest in the situation; it does not affect me one way or the other. It so chances that in the grab-bag I am permitted to name my own stenographer, and I shall do it, and, therefore, the question to which I allude does not in the slightest degree concern me personally. But there are a large number of members of this Convention that feel that they cannot do their work as it must be done here with the present allowance of stenographic help, and I am, therefore, asked and I shall, with the consent of the mover, if this motion is either withdrawn or lies on the table — move that the Committee on Minor Officers be directed to name sixteen stenographers to be assigned by the Committee on Rules for the use of the members of the Convention.

Now, there is another thing that, while I am on my feet, I shall be glad to mention. I have not had a penholder on my desk. I don't know whether the State of New York can furnish us pens and penholders or not. It has so far loosened its grip that we have a little ink. Mr. President, I represent a constituency that finds it as difficult to pay its taxes as any in the State, but they think, that while they do not want a cent wasted by this Convention, either directly in its expenditures or indirectly, they do want common, ordinary, fair, decent treatment for its membership in the way of conveniences while they are here.

I, therefore, would be glad if that Committee on Minor Places or the Clerk — that matter ordinarily comes within the functions of the Clerk — would see fit to give us one penholder apiece to be returned at the close of the Convention; and I would be willing to add to that, say, six pens to be fully accounted for. I don't know as I can get along with six, but I will try; and a modicum of ink from week to week.

I want to call the attention of the Convention to this, and as I said at the beginning, I will say at the end, I am perfectly willing to submit to whatever the Convention says; but I do believe that the members of this Convention are entitled to this consideration, and I don't believe that their principals, the people of the State of New York, want to start in by cutting down on penholders, or ink, or on reasonable conveniences for communicating with their

constituents, which any member who does his duty to his constituency must be compelled to do with a great deal of frequency.

Mr. Buxbaum — Mr. President, I withdraw my resolution and second the motion of Mr. Brackett.

Mr. Wickersham — Mr. President, presumably the Committee on Contingent Expenses will give careful consideration to the needs of the Convention, and the subject-matter is one which peculiarly belongs to its province, and I move that the matter be referred to that Committee in the usual course.

I think it would be unfortunate to begin our work by discrediting the activities of the proper committee.

The President — Mr. Wickersham moves that the motion to discharge the Committee on Minor Officers be laid on the table, and the original motion is withdrawn, as I understand it.

Mr. Brackett moves that the Committee on Minor Officers report the names of sixteen — what was it, Mr. Brackett, — I think it was sixteen stenographers to be apportioned by the Committee on Rules for the uses of the members of the Convention.

Mr. Wickersham moved that that motion be referred to the Committee on Contingent Expenses.

The Chair will say with reference to the pen and penholder issue, that the Secretary requests the statement to be made to the Convention that the supplies which include these useful implements were delivered yesterday after the close of the session, and will be, as soon as possible, distributed.

The Chair hopes the members, the delegates, will be patient in regard to these little matters of convenience, for this is practically a new body which has to be organized in all details from the ground up, and the process is necessarily a somewhat slow and tedious one. And in it the officers have not the benefit of the continuing counsels and methods of a regular Legislature.

Are you ready for the question upon the motion to refer to the Committee on Contingent Expenses the matter under discussion?

Mr. Brackett — Mr. President, it is only with a view of trying to settle all the difficulties, with all the powers of a peacemaker that I try to exercise, that I make this suggestion.

I believe that this Committee on Minor Officers will on consideration, and knowing the feeling which I think is very manifest around this chamber, take up the subject, and I am going to — in conjunction with Brother Parsons, who is an equal peacemaker with myself — suggest that the matter lie on the table till next Tuesday, to enable, first, a full Convention to be present, and in order that the Committee may consider it.

Now, I want to say that my thought is that the Committee should fix the number of additional stenographers, but I think the

personnel of these stenographers, as far as may be, should be nominated by the men who are to be served.

I know with respect to my own work I should hate to have a stenographer other than one that I knew was entirely familiar with the work and that I thought would be confidential.

Mr. Wickersham — Mr. President, may I suggest, with Senator Brackett's permission, that instead of laying the motion on the table, the motion be that the Committee report back to the Convention on Tuesday?

Mr. Brackett — Mr. President, I am entirely willing to withdraw the motion and leave it to the good judgment of the Convention, if the Committee will bring the matter up before the Convention on Tuesday.

Mr. Wickersham — That is better still.

Mr. Brackett — I am perfectly willing to do that, if that meets with the concurrence of the Convention generally. The only thing is that I do not want to have it smothered. It is a question that must be settled, and if it will be brought up before the Convention on next Tuesday, that will be satisfactory.

Mr. Wickersham — Very well.

The President — If the Chair may make a suggestion, I will call Mr. Brackett's attention to the fact that the subject of Committee stenographers has not yet been passed upon by the Convention, and the matter of doing work for the members of the Convention was a good deal discussed in the conference between the Committee on Rules and the various committees. In respect to that matter, it all seems to be part of the same general subject — the Committee stenographers and the stenographers for the benefit of the individual members, and the Chair suggests that the two be united and all be dealt with upon a single report.

Mr. Brackett — With respect to the Committee clerks and the Committee stenographers, I submit that in all legislative bodies of which I have had any observation, it has been customary for the Chairman of the Committee to select — it was so agreed in the Judiciary Committee yesterday — it follows, therefore, as it seems to me, that in the naming of the Committee clerks, and the naming of the Committee stenographers, while the appointment will be made by the Committee on Minor Officers it should be made on the recommendation of the Chairman of each Committee that is entitled to such service.

This resolution, as the Chair has properly diagnosed, refers entirely to stenographers other than Committee stenographers who can take care of the individual members, in such groups as they are willing to form themselves into. One stenographer can take care of this Committee, another one of that Committee, or the

grouping may be entirely arbitrary. I do agree that it is cognate to the stenographers and the clerks on the committees and the subject can properly be considered — and yet I do not, by the suggestion that they should be considered together, wish to be understood as yielding to the proposition that it in any way waives the right of the Chairman of a Committee to nominate and select his clerk and stenographer.

The President — The Chair did not mean to question that practice at all. I think it is universally conceded that the Chairman of the Committee should name the stenographer of the Committee, but the assignment of stenographers to the committees will have an important bearing upon the appointment and distribution of general stenographers. As the Chair understands the motion now, it is that this subject be referred to the Committee on Contingent Expenses.

Mr. Brackett — The motion is withdrawn.

The President — The motion is withdrawn, and there is then nothing before the Convention upon that subject. Will the Chair be justified in stating as the sense of the Convention that the Committee on Contingent Expenses should report its opinions upon this subject on Tuesday?

Mr. Brackett — I think that is an entirely proper statement, Mr. President. I assume that the Committee — we are all here to try to accommodate each other as much as we can, of course, to make it as convenient as we can for each other. I think the Committee, this discussion having taken place, will take judicial or Committee notice of the statement that the Chair has made. The Committee on Minor Appointments, I suppose, is the proper Committee, is it not?

Mr. Wickersham — I should think the Committee on Contingent Expenses, in the first instance, because the question is, shall there be appointments? The Committee on Minor Appointments would take the question of personnel afterward.

The President — The Chair will say that the appointment of stenographers has a little different status under the rules, from the other appointments. These appointments of stenographers are in effect, under the rules, employments by the stenographer of the Convention. Under the rules, the stenographer is made a paid officer of the Convention with a fixed salary, and is put under the obligations of an oath.

Mr. Brackett — That is the stenographer to the Committee, or the stenographer personally?

The President — I think that applies to all the stenographers that do the work of the Convention. And the rules provide that the stenographer, in addition to his salary, shall be paid such sums

as are expended in securing necessary assistants. Now the business of the stenographer will be to employ such assistants as the Convention directs, to employ the Committee stenographers, who are determined upon and named by the Chairman, and to employ such general stenographers as the Convention directs, so that that would not be an appointment directly by the Convention. It would be an instruction to the official stenographer of the Convention, and I should think that the Committee on Contingent Expenses would be the Committee having jurisdiction of that subject.

Mr. Brackett — Mr. President, I have not the slightest choice with respect to it. It is finally in the hands of the Convention, and if any one Committee does report, it will be all right.

Mr. Brenner — I rise to a question of information. Are we on the business of proposed amendments?

The President — We are not. It is motions and resolutions. The proposed amendment will be held until that order is reached.

Mr. Brackett — Mr. President, I rise for the purpose of making a motion and prefacing it with an inquiry, and that is as to whether there is any provision already made or to be made, or in contemplation, for establishing a bill-drafting or a proposition-drafting department. As is well known by the members of this Convention, there is a statute that provides for a department for the purpose of drawing bills for the convenience of members of both houses of the Legislature. Now, I feel a little about this as I did about the prior question to which I was speaking. It so chances that my work has been such that I can provide for the drafting of all the propositions I want to introduce here, but there are many members to whom such work is not only entirely unfamiliar, but inconvenient. That you may find a single man who can draw a proposition covering any subject better than any of us, I do not doubt. I do not want in any way to hamper the work of any particular Committee that has that in charge, if any Committee does have it in charge, but I am not at all advised or familiar with the plans of the officials of the Convention, and, therefore, I bring the subject up at this time, with a view of obtaining some expression of opinion on the subject, and seeing what is likely to be done. I move, for the purposes of discussion chiefly, that the President of the Convention, or the Clerk, or any other official of the Convention that the President may suggest, or all of them together, be a Committee to make proper arrangements for a department where the proposed amendments to be offered here may be drafted for the convenience of the members.

The President — Will the delegate making the motion be good enough to write it out? The Clerk is unable to state it.

Mr. Brackett—I will do that. In the meantime, I suggest that the call go on, and then I will offer it.

The President—That course will be taken. May the Chair suggest whether one of the standing committees of the Convention, Contingent Expenses or Rules or Library and Information—the Committee on Library and Information would be a very appropriate Committee.

Mr. Brackett—The Committee on Judiciary would be an excellent Committee. I have not the slightest choice as to what Committee takes it up, and I am willing to conform exactly to the suggestion of any Committee that is made, but it is a matter that is bruited and if it is to be done, it should be done. As the Convention knows, the great bulk of such work must be done in the early part of the Convention, because propositions must be offered, and if this resolution by the Committee on Rules, cutting us off from introducing them after the 1st of June, should go into effect, the drafting department, if it is to be of any service at all, would have to get into very early action, and get in its work so that the propositions could be provided.

The President—Would the Senator's motion, the general effect, be accomplished if put in the form the Chair will endeavor to state?

Mr. Brackett—I did not catch that suggestion, I am afraid.

The President—Would this form answer the Senator's purpose, that the Committee on Judiciary be directed to report to the Convention a rule for the service of the bill drafting department?

Mr. Brackett—I am entirely willing to have it that way. I suggested the Judiciary Committee more in a joking manner than otherwise, but I am entirely willing to have that course pursued.

The President—All in favor of the motion that the Judiciary Committee be directed to report to the Convention a rule or order providing for a bill-drafting force for the Convention will say Aye, contrary No. The motion is agreed to.

The President—Before proceeding to the next order of business, the Chair wishes to call the attention of the delegates, upon the request of the Secretary, to the rule which requires that propositions for amendment of the Constitution shall be submitted in duplicate, and that the title shall state the substance of the character of the proposal. It has been quite impossible to secure uniformity in the printing of the proposals which have been introduced, because they have been varied in form, and a large number of them not in duplicate, so that they have had to be edited and copies have had to be made, and that has caused great

delay. The Secretary is having printed formal headings for the drafting of proposals for amendments, so that that part of the work will be simplified, and uniformity will be secured, but the delegates will be good enough to take notice of the rule requiring duplicate copies, and adequate titles.

Propositions for Constitutional Amendments, by districts.

Mr. McKinney — Mr. President, a proposal.

The Secretary — By Mr. McKinney: Proposition to amend the Constitution.

Second reading. To amend Article III, Section 1 of the Constitution, providing for a unicameral Legislature.

The President — Referred to Committee on the Legislature, Its Organization, etc.

Mr. Buxbaum — Mr. President, I have an amendment here which I desire to submit at the end of the call — proposed amendment. I desire to hold it until the conclusion of the call.

Mr. Steinbrink — Mr. President, by request I offer the following:

The Secretary — By Mr. Steinbrink by request: proposed Constitutional Amendment.

Second reading. Amend Article II of the Constitution of the State of New York so as to provide for absentee voting.

The President — Referred to the Committee on Suffrage.

Mr. Brenner — Mr. President, I call attention to the proposed amendments now on the Secretary's desk.

The Secretary — By Mr. Brenner: Proposed Constitutional Amendment.

Second reading. To amend Article I of the Constitution, providing that in civil cases jurors shall be six in number instead of the common-law jury of twelve.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Brenner: Proposed Constitutional Amendment.

Second reading — Amend Section 18 of Article III of the Constitution, in regard to the appointment of commissioners of jurors.

The President — Committee on Judiciary.

Mr. Bayes — Mr. President, I offer the following proposed amendments.

The Secretary — By Mr. Bayes: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I of the Constitution of the State of New York, relating to trial by jury.

The President — Bill of Rights.

Mr. Griffin — Mr. President, I offer the following propositions.

The Secretary — By Mr. Griffin: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, by adding a new section in relation to requiring uniformity in valuation of property for purposes of taxation.

The President — Committee on Taxation.

The Secretary — By Mr. Griffin: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article III of the Constitution, extending the terms of Senators and Assemblymen to four and two years, respectively.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Griffin: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article III of the Constitution, increasing the salaries of Senators and Assemblymen.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Griffin: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article IV of the Constitution, extending the term of the Governor from two to four years.

The President — Governor and State Officers.

The Secretary — By Mr. Griffin: Proposed Constitutional Amendment.

Second reading — To amend Section 4 of Article IV of the Constitution, increasing the salary of the Governor.

The President — Committee on Governor and State Officers.

Mr. Wiggins — Mr. President, I offer the following and move that it be referred to the proper Committee.

The Secretary — By Mr. Wiggins: Proposed Constitutional Amendment.

Second reading — To amend Article II, Section 1, of the Constitution, to change the length of residence of a voter in a county from four months to thirty days.

The President — Suffrage.

Mr. Dunmore — Mr. President, I offer the following proposed amendment.

The Secretary — By Mr. Dunmore: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article XIV of the State Constitution.

The President — Committee on Future Amendments.

The Secretary — By Mr. Dunmore: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article V of the State Constitution.

Mr. Dunmore — Mr. President, I did not receive a copy of the

rules and I did not understand, when I drew this, that where the entire section was treated that it was necessary to add a new title.

The President — Committee on Civil Service.

Mr. R. B. Smith — Mr. President, I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 18, of the Constitution, in relation to the power of the Legislature to pass private or local bills.

The President — Referred to the Committee on Legislative Powers.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article I of the Constitution, in relation to the public uses for which private property may be taken and the assessment of damages sustained in certain cases.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. R. B. Smith: A Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, in relation to the Court of Claims.

The President — Referred to the Committee on Judiciary.

Mr. Kirby — Mr. President, I offer the following.

The Secretary — By Mr. Kirby: A Proposed Constitutional Amendment.

Second reading — To amend Article X of the Constitution, Section 1, relating to the office of sheriff and removing disability of succession.

The President — Referred to the Committee on County Officers.

Mr. Quigg — Mr. President, may I ask what Committee that was referred to?

The President — The Chair was a little in doubt whether it should be to County Government or County Officers but the Chair thought it should go to the Committee on County Officers. Does Mr. Quigg object to that?

Mr. Quigg — I raise the question to the Chair as to whether that ought not to be referred to the Organization of Counties.

The President — Yes; County Government.

Mr. Buxbaum — Mr. President, I offer the following.

The Secretary — By Mr. Buxbaum: A Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the restriction of legislative powers.

The President — Referred to the Committee on Legislative Powers.

The Secretary — By Mr. Buxbaum: A Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to imprisonment in civil actions except in certain cases.

The President — Referred to the Committee on Judiciary — or —

Mr. Marshall — Mr. Chairman, would that not properly belong to the Bill of Rights? It amends Section 6 of Article I.

The President — The Chair thinks not — subject to the action of the Convention, of course — but upon an examination of the proposed amendment, it appears not to affect the present provisions of Section 6 except to make an addition by adding a provision that, except for contempt, no person shall be arrested upon a civil action except by order of a court, or for willful injury to person, character or property. The Chair thinks that that does not affect the substantial rights in the Bill of Rights, but relates rather to a detail of process of law — to the remedy to be allowed in a civil action and that that belongs to —

Mr. Marshall — Mr. President, may I be permitted to make a suggestion on that point?

The President — The Chair will be very glad of your suggestion.

Mr. Marshall — Inasmuch as I am a member of the Judiciary Committee, it is very evident that it is not of much personal importance to me as to which Committee it shall be referred except that we maintain some logical differentiation between the powers of the two committees.

I have been permitted to examine this proposed amendment by the courtesy of the gentleman on my right. It adds to the present sixth section of Article I, immediately after that clause reading: "nor be deprived of life, liberty or property without due process of law" the following new matter "except for contempt no person shall be arrested or imprisoned in any civil action or proceeding" save in certain contingencies. That necessarily affects the liberty of the citizen. As you had occasion to say a moment ago, it relates to due process of law. It modifies that phrase or at least gives a partial definition to it, since it deals with the liberty of the citizen, his freedom from arrest, his immunity from imprisonment. It would seem therefore logically to come directly within the functions of the Bill of Rights Committee, especially since it is a part of that clause of Article I of the Constitution which is popularly referred to as the Bill of Rights and which bears that caption in the usual print of the Constitution, though not a part of the Constitution. The Judiciary Committee is generally confined in its purposes to the framing of a judiciary article. It deals with the

organization of the courts and not with rights and remedies. Consequently it appears to be more logical to have the subject of this proposed amendment passed upon by the Committee on the Bill of Rights. It covers a subject similar to that involved in the proposition relating to the infliction of a penalty in a criminal case. Such a measure was referred to the Committee on the Bill of Rights on Tuesday. I refer to that which proposes to abolish the infliction of capital punishment. That relates to fundamental personal rights in a criminal case just as this relates to such rights in a civil case; that relates to the life of the individual and this relates to his liberty. It is true that in one case we are dealing with a criminal proceeding, and in the amendment now under consideration we are dealing with a civil proceeding, but it seems to be foreign to the general purposes of the Judiciary Committee and I believe comes within the direct scope of the Committee on Bill of Rights.

The President — The Chair is still of the opinion that this affects the remedy in the course of due process of law; the immunity of the citizen from imprisonment except by due process of law is safeguarded in the Bill of Rights. The remedies which are to be afforded by due process of law seem to be a matter of the general judiciary system. I should say the Chair is a little in doubt on it but is still inclined to say the reference should be to the Judiciary Committee.

Mr. Parsons — Mr. President, I ask unanimous consent that a resolution which I introduced on April 27th in regard to woman suffrage be printed in the same manner as the Constitutional Amendments and placed in the files of amendments. I think under the rules there is no provision for printing resolutions.

The President — Is there objection to the request that the resolution offered by Mr. Parsons in regard to suffrage be printed separately as a document and laid upon the desks of the members? The Chair hears no objection and it is so ordered.

Mr. Wickersham — Mr. President, I move that when the Convention adjourns to-day it adjourn until Tuesday next at 12 o'clock noon.

Mr. Stimson — I second that motion of Mr. Wickersham. It seems to me that, while it is of the utmost importance that the work of the Convention should be expedited, it does appear that the work of organization of the different committees will be finished to-day so far as it can be done this week. There will be no meeting to-morrow and it also appears that a large number of delegates from the distant portions of the State would stay over to-morrow for a meeting that would be probably purely formal, at very considerable inconvenience. It appears that a good many of us have come here with the expectation that this week we would

not be called upon to stay more than two or three days and that while such adjournment would not be taken as a precedent for the future, it would help very much and convenience very many of us if we could get away early this week.

The President — Are you ready for the question upon the motion?

Mr. Schurman — I think the last remark made by the last speaker is one on which we should have an understanding. I am not opposed to the motion which has been made, but I think we ought to know for our own convenience, whether, if this motion prevails, it will establish a precedent so that the expectation in our own minds and the mind of the public who pay any attention to what we are doing, will be that we shall next week and the following week, and perhaps for some weeks to come, adjourn on Thursday. I rather think that would be undesirable, and, in supporting the present motion, I do so on the understanding that the situation during the present week is exceptional — the Convention getting organized — and that under the circumstances as they exist this week no public interest would be subserved by our remaining longer in session or injured by our adjournment.

Mr. Wickersham — My motion was made because of the circumstances mentioned by the last speaker, not at all with the idea of establishing a precedent, and after some hesitation, but after appreciating the fact that there will probably be no business before the Convention to-morrow and that a good deal of the machinery of organization which is going forward will not be completed within the next two or three days.

Mr. Stimson — Mr. President, in view of the remarks of the Vice-President, I simply desire to say that the purpose of my statement was to make it perfectly clear that in seconding the motion I deemed it was not to be a precedent for future weeks but due entirely to the exceptional conditions of the week of organization.

Mr. Blauvelt — Mr. President, I understand, or my recollection is, that this Convention adopted a rule for the holding of the sessions of the Convention on Tuesdays, Wednesdays, Thursdays and Fridays. I doubt whether this motion is in order, for the reason that an amendment of the rules would be required.

It is true that the work of the Convention does not require, perhaps, the attendance of the members at the session to-morrow.

My impression is that a formal session should be held to-morrow, and that the rule cannot be suspended.

Mr. Quigg — Mr. President, this is not such a serious matter as some would seem to have it appear to be. Now, we adopted the rules by a majority vote, with, as I understand it, the assurance of the Chair that at any time, by a majority vote, we could change

them, and if we adopt the motion made by the gentleman from New York that we do not meet to-morrow — and it is pretty obvious to all of us that there is no occasion to meet to-morrow, for we have not really got started as yet — that would be simply changing a rule by a majority vote.

Now, if there is going to be a proposition that we have got to change a rule in some other way than that, I want to understand it.

Mr. J. L. O'Brian — Mr. President, I think both gentlemen who have spoken are under a misapprehension. The sessions were not fixed by rule. The sessions were fixed by a resolution which was offered by the Committee on Rules simply as a resolution, and that resolution provides, if they will consult it, that, until further ordered by the Convention, the Convention shall meet at 10 o'clock on the days mentioned.

Mr. Quigg — I guess it amounts to the same thing.

Mr. J. L. O'Brian — Therefore, Mr. President, the motion that is made by Mr. Stimson is entirely in order.

Mr. Quigg — I think it amounts to the same thing.

Mr. Brackett — Mr. President, if I may be permitted, I would suggest this, which I believe to be the best solution of the situation: The President is a resident of the city, and, if not, the Vice-President is, and I would suggest that we let either one of them have a formal session to-morrow with the understanding that nobody will be expected to attend the meeting, and that the Sergeant-at-Arms will not be sent for us.

That is a great deal better than to establish the precedent of ending the session on Thursday, and adjourning over until the following Tuesday, because it is so easy a thing to follow up, and you will find there will always be some reason to adjourn from Thursday to Tuesday, if we establish the precedent.

Mr. Deyo — Mr. President, in order that we may have an expression of the Convention as to whether or not a session shall be held to-morrow, I move the previous question.

The President — The question is, Shall the main question now be put? All in favor of the motion will say Aye, contrary No. The Ayes have it. The motion prevails.

The question is on the motion made by Mr. Wickersham, that when the Convention adjourns to-day, that it adjourn until 12 o'clock on Tuesday next. All in favor of the motion say Aye, contrary No. The Ayes have it, and the motion is agreed to.

Mr. Quigg — Mr. President, I have never been a member of the Assembly or the Senate, and I do not quite understand the papers that are placed before us by the printer.

Now, in the documents that were directed to be printed, in

which the rules should be printed, I find in my papers this morning a Document No. 3. That appears to be the rules, to a certain extent, and then I find a Document No. 4, about a printing board, and at the close, the agreement — the printer has got the Articles of Agreement between him and the Committee in good shape.

Then, I find over here another set of rules that I do not understand, as though they contradict the first set, and then finally I find out how much the printer is to be paid.

Mr. M. Saxe — Mr. President, I rise to a point of order. I should like to be informed as to what order of business we are under at this moment.

Mr. Quigg — Mr. President, I simply wanted to inquire as to whether or not the Committee which was directed to inquire into the printing matter has made a report, as the Convention ordered, or, if they have not, if I may have an explanation of the documents placed on my desk this morning.

The President — The Chair is unable to inform the gentleman. The Chair has no information except by looking at the documents. The Document No. 3 appears to be the rules.

Mr. Marshall — If the gentleman will look on page 5 of Document 4, he will find the following clause: "And it is further agreed, that each page of documents, journals and proceedings shall be set in the same size of type, and the same weight and quality of paper shall be used as in the samples submitted by said printing board to the party of the second part, and which samples are attached hereto and made a part hereof."

The page to which the gentleman just referred and those that follow are specimens of different kinds of printing. One, you will see, is the reproduction of the Record of the Constitutional Convention of 1894. Page 16, the form of the Record, the form of type used. On page 18, there is the Journal. On page 20, there is the Document, No. 9, which is a sample document used in the Convention of 1894, which covers the rules of the Convention, and it is not a reproduction of something which is to be found in Document No. 3, which is a document of this Convention.

On page 22, he will find the form of a proposed amendment as used in the Convention of 1894, and on page 24, he will find the form of the daily calendar used in that Convention.

So that there is no reproduction of anything in connection with this Convention. The matter is simply submitted as a sample.

Mr. Quigg — Mr. President, I believe that we are all very much obliged to Mr. Marshall for his explanation, because I was very much confused.

Mr. M. Saxe — Mr. President, I rose a moment ago to a point of order. I think it is very important that we should keep to the order of business as prescribed by the rules.

The President — Any interruption of the order of business is assumed to be by unanimous consent, and any delegate at any time can be called to the regular order of business. Any member may rise to a point of order, which will shut off all other matters, unless they be matters of personal privilege.

The next order of business is the reports of standing committees.

Mr. Fobes — Mr. President, I would like to announce that a meeting of the Committee on Contingent Expenses will be held in Room No. 236 immediately after this session, and that we would like to have the Chairman of the Rules Committee present.

The President — The President is requested to announce that the Rules Committee and the Committee on Minor Officers and the Committee on Contingent Expenses will meet in conference.

The members of the three committees named will take notice of that engagement, that a conference between the Rules Committee and the Committee on Contingent Expenses and the Committee on Minor Officers will be held in the President's room immediately upon adjournment.

Mr. M. Saxe — Mr. President, the Committee on Taxation desires to announce through the press that it extends an invitation to appear before the Committee to all individuals and organizations who desire to be heard on the subject of taxation, and that such individuals and organizations be respectfully asked to send their requests to be heard to the Committee forthwith, addressed to the Secretary of the Committee.

The Committee further reports that it has organized with the selection of Mr. Ostrander of Saratoga as First Vice-President, Mr. Steinbrink of Kings as Second Vice-President, and Mr. Unger of New York as Secretary, and that the meetings of the Committee will be held Tuesday evenings at 8 o'clock, and Wednesday afternoons at 3 o'clock.

The President — Any further reports from the standing committees?

Reports of select committees.

There are no special orders or general orders.

The officer in charge of placing the papers, printed papers, in the files of the delegates, requests that the attention of the delegates be called to the necessity of leaving their files upon their desks instead of putting them in the desks and locking them up. It is necessary that the files should be left upon the desks so that the messengers charged with placing in the files the printed papers of the day may have access to them.

Mr. Wickersham — Mr. President, there is one difficulty that I believe we are all experiencing. I would like to take these proposed amendments home with me and read them during the days

that we are not engaged here. They are accumulating, and why could not we have a second copy of the proposed amendment?

The President — The Secretary advises the Chair that he is prepared to furnish a second copy of all the documents, the Record, and of all the printed papers to any delegate who will apply at the document room or who will send a page to the document room.

Mr. Wiggins — Mr. President, before adjournment, with the permission of the Convention, I should like to call attention to the fact that Proposed Amendment No. 12 has not been printed, apparently, in accordance with the rules. After line No. 10, as I find by comparison with the Constitution, the entire matter is new matter and should be in italics.

Mr. Young, the introducer of the amendment, advises me it was all arranged for, and to sit down.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves to adjourn. All those in favor say Aye, contrary No. The motion is carried, and the Convention stands adjourned until 12 o'clock on Tuesday next.

Whereupon, at 11:15 a. m., the Convention adjourned to meet at 12 o'clock noon, Tuesday, May 4, 1915.

TUESDAY, MAY 4, 1915

The President — The Convention will please be in order.

Prayer by the Rev. J. Addison Jones — Let us pray. Almighty God, Thou hast watched over our going out and our coming in; Thou hast preserved our souls in light, and Thou has permitted us to gather here to continue the work to which we have been called, and to Thee we would bring the tribute of our praise for Thy constant care and Thy gracious favor. Under Thy benign guidance may we pass this day in peace and gladness, without stumbling and without stain. Enlighten Thou our reason, purify our senses, and direct our energies that we may walk in the way of righteousness, that we may devote ourselves to the business of life with zeal and cheerfulness, to the end that the results in our character and in our service may minister to the substantial progress of mankind and meet with the approbation of our God. Let the rich blessings of Thy grace descend upon Thy servants, the members of this Convention. May they give the best that is in them to the high and important tasks devolving upon them, to the end that the inalienable rights of the people may be safeguarded and that every honorable interest and enterprise may be worthily advanced. We invoke the gift of wisdom in behalf of Thy servant, the President of this Republic, that amid the perils and

perplexities of this present time, our nation may be held steadfastly to the paths of peace. For Thy great name's sake, Amen.

The President — Reading of the Journal.

Mr. Wickersham — I move that the reading of the Journal be suspended.

The President — Mr. Wickersham moves that the reading of the Journal be dispensed with. All in favor of the motion will say Aye, contrary no. The motion is agreed to.

Presentation of memorials.

The President — Communications from Governor and other State officers.

Notices, motions and resolutions.

Mr. Berri — Mr. President, I find that the Clerk is entirely out of Document No. 1, which contains the Committee assignments and that he has been forced to typewrite them, and I therefore move you that 500 additional copies of Document No. 1 be provided.

The President — The Chairman of the Committee on Printing moves that 500 additional copies of Document No. 1 containing the Committee assignments be printed. Unless there be unanimous consent that resolution would have to go to the Committee on Contingent Expenses. Is there any objection to its present consideration?

Mr. Berri — I ask unanimous consent for its present consideration.

The President — Hearing no objection the question will be put. All in favor of the motion say Aye, contrary No. The motion is agreed to and the printing is ordered.

The Secretary — By Mr. Steinbrink: Resolved, That the Secretary of this Convention ascertain from the officer having custody of the records, the names, ages and previous judicial services of the official referees acting as such in the first and second departments, the salaries paid to each and what public expense, if any, there is in connection with the conduct of the office and the number of actions or proceedings heard and disposed of by each of them, and,

Further Resolved, That such information be obtained whether it applies to former justices of the Supreme Court or to former Municipal Court judges, and also the names, ages and previous judicial services of the City Court judges eligible to appointment as official referees under the recent act of the Legislature.

Mr. Sheehan — Mr. President, do I understand the resolution is presented for adoption now?

Mr. Steinbrink — No, just for information.

The President — In the ordinary course it would go to the Committee on Library and Information.

Mr. Wickersham — It seems to me, sir, that resolutions calling for information should be referred not only to the Committee on Library and Information, but also to the Committee having jurisdiction over the general subject of the resolution or, at all events, that there should be some official method of bringing to the attention of that Committee the requests for information.

Take, for example, this present resolution before the House. It calls for information which relates to the administration of justice, and it is a subject which is distinctly within the purview of the Judiciary Committee.

I presume that the creation of the Committee on Library and Information was for the purpose of having one conduit through which these requests should pass, but it seems to me that the resolution should also be considered by the committee having jurisdiction over the general subject, and my motion would be that the resolution be referred to the Committee on Library and Information with instructions to communicate with the Committee on Judiciary before reporting upon the subject.

Mr. Steinbrink — That is entirely agreeable to me, sir.

The President — Is there any objection to the resolution taking the course indicated by Mr. Wickersham, that the reference be to the Committee on Library and Information with instructions to confer with the Judiciary Committee?

Without objection the reference will take that form.

Mr. Parsons — Mr. President, I offer the following resolution.

The Secretary — By Mr. Parsons: A resolution in regard to amendments proposed by the Legislature to be submitted at the coming election. Resolved, That the Secretary of State be, and he hereby is, requested to submit to the Convention copies of all proposed amendments to the Constitution which the Legislature has submitted to the people for approval at the regular election this years, and that the same, when received, be printed as a document.

Mr. Parsons — Mr. President, I ask immediate consideration of this resolution.

The President — Immediate consideration of the resolution now reported is asked. Is there objection? The Chair hears none. All in favor of the resolution will say Aye, contrary No.

The resolution is agreed to.

Mr. Quigg — Mr. President, I want to call the Chair's attention to a reference that was made of a Proposed Constitutional Amendment, and I see no order of business under which to do it, unless it is included in the word "Notices" in this order of business.

If it is proper, I should like to call the Chair's attention to Proposed Constitutional Amendment No. 12, offered by Mr. C. H.

Young, which was referred to the Committee on County, Town and Village Officers. Its object is, under certain circumstances, to have the county board of supervisors or the board of supervisors elected as county officers, and I suppose, under the rule, that should go to the Organization of Counties, Towns and Villages. If, as I read the rule on the organization, it is No. 11 of the Committee assignments on page 122 of the Manual, on Counties, Towns and Villages, Their Organization, Government and Powers, and since this is an organization of the county or an organization of the town, I suppose it to belong to the Committee on Organization of Counties, Towns and Villages.

The other rule, No 12, indicates that the Committee on County, Town and Village Officers has to do with their election or appointment, tenure of office, compensation, powers and duties, and I admit that the two seem to be conflicting, but I should suppose that the organization of the county or of the town would relate to the Committee on County, Town and Village Organization. I submit the suggestion to the Chair.

The President — The Chair is inclined to think the suggestion is well taken but the reference has already been made. The title, upon which reference was made by the Chair, did not fully set forth the character of the proposed amendment. Still, the reference has been made and the proper course, I think, is either that the Committee should report it back and ask to be discharged from further consideration and that the new reference be made, or that the gentleman should offer a motion —

Mr. Quigg — If the Chair will entertain a motion — because it will save time — I move that the reference in respect to the Proposal No. 12 be changed from the Committee on County, Town and Village Officers to the Committee on Counties, Towns and Villages, Their Organization, etc.

The President — Mr. Quigg moves that the Committee on County, Town and Village Officers be discharged from further consideration of the Proposed Amendment No. 12, and that that amendment be referred to the Committee on Counties, Towns and Villages, Their Organization, etc.

Mr. Mereness — It seems to me, Mr. President, that it is difficult to determine just which of these two committees should dispose of this matter. How would it be to instruct Committee No. 12 before reporting upon that proposal to confer with the other Committee upon County, Town and Village Organization?

The President — That is a matter over which the Chair has no control.

Mr. Mereness — It seems to me that the officers to be elected in any new scheme of county government are as much under the

jurisdiction of Committee No. 12 as of the other committees — that the two committees necessarily would have to work harmoniously on that subject anyway.

Mr. Quigg — Mr. President, here is a distinct proposition affecting county government and if there is anything that belongs to the Committee on Counties, Towns and Villages, Their Organization, Government and Powers, it seems to me that it is this proposition. I press my motion.

The President — If this motion gives rise to debate, it must, under the rules, lie over for a day. It can be considered, however, now by unanimous consent.

Mr. Quigg — I ask for unanimous consent.

The President — Is there objection to present consideration of the motion to change the reference of this proposed amendment? The Chair hears none. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Stimson — I rise to call the attention of the Convention to an error of a similar kind in regard to Proposed Amendment No. 46, offered by Mr. Griffin, to amend Article I of the Constitution, by adding a new section in relation to requiring uniformity in valuation of property for purposes of taxation. In the printed record of the Proposed Amendments, that amendment appears to have been referred to the Committee on State Finances, Revenues and Expenditures, while in the Record of the Convention, at page 92, it appears to have been referred by the President to the Committee on Taxation, which is in accordance with my recollection of the actual occurrence. I believe that the apparent reference to the Committee on State Finance shown in the printed amendment is an error and I move you, sir, that that be corrected so as to show what I believe to be the fact, that the amendment, in accordance with the Record, was referred to the Committee on Taxation.

Mr. Griffin — Mr. President, as the proposer of the proposition, I wish to say that the gentleman's recollection is in line with my own, and that is borne out by the Record.

The President — The Record indicates that the reference was made to the Committee on Taxation and the copy of the Proposed Amendment will be corrected to conform to the Record.

Mr. Stimson — I have a similar correction to make in regard to Proposed Amendment No. 19, offered by Mr. Aiken, which by the printed amendment appears to have been referred to the Committee on The Governor and Other State Officers, while by the Record of the Convention at page 63, that amendment was referred to the Committee on Finance, which also accords with my recollection of the occurrence and I ask to have that corrected accordingly so as to indicate that this amendment, No. 19, was referred to the Committee on State Finances.

The President — The Chair asks whether the printed Journal has been examined with reference to these discrepancies?

Mr. Parsons — Mr. President, the printed Journal, on page 29, reports that it was referred to the Committee on The Governor and Other State Officers.

Mr. Stimson — If the President will turn to the Record, he will see that a question was raised as to that by the gentleman from Columbia, and the matter was brought clearly to the Chair's attention, and the Chair adhered to his ruling that it go to the Committee on Finance, therefore, the Record seems the correct version of what took place.

Mr. Quigg — That is my recollection, if the Chair will permit me to say so.

The President — The printed document will be corrected to conform to the Record, and without objection, the Journal will be corrected accordingly.

Mr. Parsons — I suggest that the Journal also be corrected on the previous amendment, which was considered, No. 46, to agree with the Record — referred to the Committee on State Finances — it has gone to the Committee on Taxation.

The President — Without objection, the Journal will be corrected to conform to the Record.

Mr. Hinman — I do not know whether this is the proper time or not, but I have been requested by Mr. Barnes to ask that he be excused by the Convention from attending its sessions during this week.

The President — All in favor of the motion say Aye, contrary No. The motion is agreed to.

Mr. Mereness — While the matter of a proper reference of Proposed Constitutional Amendments is up, I would like to call the attention of the President and the Convention to the proposition numbered 57 by Mr. Kirby. The only change sought to be made in that section, as I understand it, is to make sheriffs eligible for re-election.

Now, in the documents I see that the Committee on County, Town and Village Officers, has to do with the appointment, tenure of office, etc., and it seems to me that that evidently is erroneously referred, because it deals simply with the question of whether the sheriff can be eligible for re-election.

I would suggest that the same disposition be made of that which was made of the other one, that the proposition be referred to the Committee No. 12.

The President — Is there any objection to discharging the Committee on County, Town and Village Government, etc., from further consideration of Amendment No. 57, and referring that

amendment to the Committee on County, Town and Village Officers?

Mr. Sheehan — Mr. President, the only question in my mind is whether or not the suggestion made by the gentleman should be carried out in the absence or without the consent of the introducer of the Proposed Amendment. I think probably the requested reference is a good one, but I think Mr. Kirby should be here.

Mr. C. H. Young — Mr. President, Mr. Kirby is here.

Mr. Kirby — Mr. President, I have no objection to the reference suggested by Mr. Mereness.

The President — Without objection, the Committee on County, Town and Village Government, etc., will be discharged from further consideration of Proposition No. 57, and that amendment will be referred to the Committee on County, Town and Village Officers.

Mr. Dick — I offer the following resolution.

The Secretary — By Mr. Dick: Resolved, That the Secretary of this Convention be and he hereby is directed to cause a printed copy of each Proposed Amendment to the Constitution, which has been introduced into this body, to be sent immediately to each New York State Law Library, and a printed copy of each of such Proposed Amendments as hereafter may be introduced into this body to each of such libraries as soon as such Proposed Amendment shall have been printed, respectively.

The President — Are you ready for the question upon the resolution? Are there any remarks to be made upon it?

Mr. Quigg — Mr. President, a great many other things ought to be sent there, too. The Law Library in the Post-Office, the old Law Library, has asked me to see that all the documents are sent to them, and it seems to me that all our printed documents ought to be sent to the law libraries.

I will move to amend, therefore, that all the documents issued or printed by the Convention be sent to the law libraries.

Mr. Wickersham — Mr. President, I move that resolution be referred to the Committee on Contingent Expenses. I think that there is some consideration which should be given to the subject and a printing rule adopted.

The President — May the Chair make a statement on that subject? The rules direct the President of the Convention to designate institutions to which the proceedings and documents of the Convention may be sent, and with a view to the performance of that duty, the President consulted the members of the Committee on Printing, the Committee on Contingent Expenses and the Committee on Rules, at a conference held last week as to the scope which this distribution should take.

The members of these different committees were all agreed that it was desirable and important that the fullest information should be given to the public in regard to the proceedings of the Convention, and instructions were given informally to secure, first, a list of all the public libraries of the State, and next a list of the higher educational institutions of the State, and it was the purpose of those committees to make a report to the Convention, after that information came in, and after a few days more experience in the way of applications for documents, upon which the number of copies of proceedings and documents to be printed could be fixed, and the President has taken the liberty, going somewhat beyond his strict authority, to say to the Secretary that he should send printed documents for the time being to all persons applying, and for the purpose of getting this basis upon which to determine what number of copies shall be printed, the Chair asks and suggests to the delegates that all applications which they receive to be put on a mailing list, for the purpose of receiving printed matter of the Convention, be handed to the Secretary who will add the names to his list, and then when we have the list of the persons applying for this continuous information and lists of the institutions to which it will be appropriate to send it, the Convention can act.

And the Chair suggests that this resolution is a very proper resolution and that it should stand over, that it should be either referred to the Committee on Contingent Expenses or stand over until that information is obtained.

Mr. Dahm — I move you, sir, that action on this resolution or motion be deferred until such time as the Committee on Printing can get the information desired in reference to the number of libraries and public institutions in this State.

Mr. Cullinan — Mr. President, I rise for information. I would like to ask the Chair if the subject was considered of sending these Proposed Amendments to the press of the State, particularly what might be called the rural press. Was it discussed?

The President — It was very fully discussed and that will be a subject for the consideration of the Convention.

Mr. Wickersham — Mr. President, would it not be a proper motion to move to lay this matter on the table?

The President — Either that or refer it to one of the committees of the Convention.

Mr. Wickersham — Mr. President, I move that it be laid upon the table. It does not seem to be necessary to trouble the Committee with this resolution under the circumstances.

The President — That will accomplish Mr. Dahm's proposal, I suppose. It is moved that this resolution lay on the table. All in favor say Aye, contrary No. The motion is carried.

The Chair wishes to repeat this suggestion to the delegates, that, for the purpose of having the requests of their correspondents complied with and getting the basis of a proposed mailing list, all applications for printed documents be referred to the Secretary of the Convention.

Mr. Westwood — Mr. President, I offer the following resolution.

The Secretary — By Mr. Westwood: Resolved, That the Commissioner of Highways be requested to report to this Convention as soon as practicable:

1. The amount of money actually obtained by each of the counties of the State from the first \$50,000,000 highway bond issue;

2. The amount of money allotted to each of the counties of the State based on mileage, area and population from the second \$50,000,000 highway bond issue;

3. As to each of the counties of the State the amounts of excess or deficiencies in the allotment of the second \$50,000,000 issue compared with the amounts received from the first \$50,000,000 issue.

Mr. Westwood — Mr. President, I move that that resolution be referred to the Committee on Public Utilities.

The President — All in favor of that resolution say Aye, contrary No. The resolution is agreed to. The motion to refer is agreed to.

Propositions for Constitutional Amendment, by districts.

Mr. Coles — Mr. President, I offer the following.

The Secretary — By Mr. Coles: A proposition to amend the Constitution.

Second reading — To amend Article X, relating to the powers and duties of county clerks and registers in reference to the registration of land titles.

The President — Referred to the Judiciary Committee.

Mr. Coles — Mr. President, it seems to me since that amendment pertains entirely to registers and county clerks, it should properly be referred to the Committee on County, Town and Village Officers. It is proposed to amend that section of the Constitution dealing with county officers.

The President — The Chair is subject to the correction of the Convention, but the Chair is inclined to think that the subject of this proposal calls for a reference to the Committee on the Judiciary. It purports to authorize the Legislature to confer important judicial powers upon the officers of the county, the register and clerk, and make their action in the exercise of those judicial powers subject to the review of the Supreme Court, as the Legislature may provide. The Chair is inclined to think that the substantial intent of the amendment is a change in the judicial

system, which carries the reference to the committee having that system in view, rather than to the committee having jurisdiction over the government of counties, and unless Mr. Coles wishes to move a different reference it shall be that reference.

Mr. Coles — Mr. President, I would like to reserve the right to consider it further and move at a later time.

The President — It will always be the delegate's right to make that motion.

Mr. Frank — Mr. President, I offer the following:

The Secretary — By Mr. Frank: A proposal to amend the Constitution.

Second reading — To amend Article VI, Section 14 of the Constitution of the State of New York, relating to County Courts.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Adams: Proposed Constitutional amendment.

Second reading — To amend Section 14, Article VI, of the State Constitution, in respect to the County Court, in and for the county of Kings.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Buxbaum: A Proposed Constitutional Amendment.

Second reading — To amend Article XIII of the Constitution, in relation to bribery, corruption and fraud.

The President — Subject to correction, the Chair will refer that to the Judiciary Committee.

The Secretary — By Mr. Steinbrink: A Proposed Constitutional Amendment.

Second reading — To provide a method for retention in office of competent justices of the Supreme Court who have served a full term.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Steinbrink: Proposed Constitutional Amendment.

Second reading — Section 1, Article VI, to strike out the legislative power to increase the number of Supreme Court justices.

The President — Committee on Judiciary.

The Secretary — By Mr. Steinbrink: Proposed Constitutional Amendment.

Second reading — Section 12, Article VI, to fix and make uniform the compensation paid to justices of the Supreme Court.

The President — Committee on Judiciary.

The Secretary — By Mr. Linde: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article IX of the Constitution, relating to education.

The President — Committee on Education.

Mr. Wagner — Mr. President, I offer the following.

The Secretary — By Mr. Wagner: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, guaranteeing in cities and incorporated villages the right of municipal self-government and restricting the power of the Legislature to the enactment of general laws in reference thereto.

The President — The Chair inquires whether Mr. Wagner has any suggestion with respect to the reference of this proposition. It could go, looked at from one point of view, to the Committee on Cities, or, under the other, to the Committee on Legislative Powers.

Mr. Wagner — I suggest the Committee on Cities, Mr. President.

The President — If there is no other suggestion, the Chair will make that reference, to the Committee on Cities.

Mr. Griffin — Mr. President, I offer the following proposition.

The Secretary — By Mr. Griffin: Proposed Constitutional Amendment.

Second reading — In relation to the political year and the term of the Legislature.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Griffin: Proposed Constitutional Amendment.

Second reading — To amend Article III by adding a new section prohibiting the passage of laws granting private persons, associations or corporations the right to prosecute, enforce or collect fines and penalties.

The President — Committee on Legislative Powers.

Mr. C. H. Young — Mr. President, I offer the following amendment.

The Secretary — By Mr. C. H. Young: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VII of the State Constitution, relating to the conservation of natural resources.

The President — Committee on Conservation.

The Secretary — By Mr. Barrett: Proposed Constitutional Amendment.

Second reading — To amend Article VI, Section 18, in relation to the establishment of inferior courts.

The President — Committee on Judiciary.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Constitutional Amendment.

Second reading — Proposed Amendment to Article V, Section 1 of the Constitution, by creating a new State office, to be known as the State Highway Commission.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — Proposed Amendment to the Constitution, Article III, Section 8, by striking therefrom that portion which makes ineligible to the Legislature any person who within 100 days previous thereto has been an officer under any city government.

The President — Committee on the Legislature, Its Organization, etc.

Mr. Wiggins — Mr. President, I was just reading through the Proposed Amendments, and I observed that Amendment No. 3, proposed by Mr. J. J. White, is substantially the same as the amendment which was just offered by me, and therefore if there is no objection I should like to withdraw it, as there is no necessity of lumbering the Record with unnecessary amendments.

The President — The Proposed Amendment will be withdrawn.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Article IV, Section 2, of the Constitution, changing from five to ten years the residence required in the State of a person to be eligible to the office of Governor or Lieutenant-Governor.

The President — Committee on Suffrage.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 2 of the Constitution, to provide for the election of a State Highway Commissioner in the year 1916 and every two years thereafter.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Quigg: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, so as to limit the application of the provision in regard to the immunity of witnesses.

The President — Committee on Bill of Rights.

The Secretary — By Mr. S. K. Phillips: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article III of the Constitution, in relation to the civil service.

The President — Committee on Civil Service.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 15 of the Constitution, relative to the passage of bills by the Legislature, by striking out the authorization for the passage of bills under emergency messages from the Governor.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 1, of the Constitution, relative to the time within which payments may be made from appropriations, and limiting reappropriations to the object for which the original appropriation was made.

The President — Committee on State Finances.

Mr. Ostrander — Mr. President, by request I offer the following.

The Secretary — By Mr. Brackett: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding a new section thereto, relating to the Superintendent of Insurance.

The President — Referred to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Brackett: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article V of the Constitution, relating to the Superintendent of Public Works.

The President — The Committee on the Governor and Other State Officers.

The Secretary — By Mr. Brackett: Proposed Amendment to the Constitution.

Second reading — A proposition to amend the Constitution, by adding thereto a section to read as follows:

“There shall be a board of pardon and parole, to which shall be referred all applications for pardons, commutations or paroles.”

The President — The Committee on the Governor and Other State Officers.

The Secretary — By Mr. Brackett: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article V, relating to the Superintendent of State Prisons.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VII of the Constitution, in reference to the use and increase of the Forest Preserve.

The President — Committee on Conservation.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article V of the Constitution, in respect to State officers and the selection thereof.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article V of the Constitution, in relation to the duties and powers of State officers and creating administrative departments.

The President — The Committee on the Governor and Other State Officers.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article IV of the Constitution, by increasing the term of office of the Governor.

The President — The Committee on Governor and Other State Officers.

Mr. Leggett — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Leggett: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XIII of the Constitution, in relation to the official oath.

The President — The Chair is a little in doubt about the reference of this Proposed Amendment. It covers all branches of the government. Unless there is some other suggestion, the reference will be made to the Committee on Legislative Organization.

Mr. Kirby — Mr. President, I offer the following amendments.

The Secretary — By Mr. Kirby: Proposed Amendment to the Constitution.

Second reading — To amend Article X, Section 9, of the State Constitution, abolishing fees or perquisites of all State and county officers.

The President — Referred to Committee on County, Town and Village Officers.

The Secretary — By Mr. Kirby: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, Section 2, of the State Constitution, relating to the documents, records and papers of the State Board of Charities, connected with the visitation and inspection of certain institutions and making the same public records.

The President — This Proposed Amendment is of such a nature that it is subject to reference to several different committees.

Mr. Kirby — Mr. President, I ask that it be referred to the Committee on State Charities.

The President — That reference will be made.

Mr. Nixon — Mr. President, I offer the following Proposed Amendments.

The Secretary — By Mr. Nixon: Proposed Amendment to the Constitution.

Second reading — To amend Article II, Section 1, providing the privilege of suffrage for absent voters.

The President — Committee on Suffrage.

The Secretary — By Mr. Nixon: Proposed Amendment to the Constitution.

Second reading — To amend Article III, by inserting a new section providing for the abolition of tax exemptions.

The President — Committee on Taxation.

Mr. Standart — Mr. President, I offer the following Proposed Amendments.

The Secretary — By Mr. Standart: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Sections 2 and 6, extending the terms of office of the Legislature, providing for biennial sessions thereof, and increasing the compensation of members thereof.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Standart: Proposed Amendment to the Constitution.

Second reading — To amend Article XIV, Section 1, relating to future amendments.

The President — Committee on Future Amendments.

Mr. Westwood — I offer the following Proposed Amendment.

The Secretary — By Mr. Westwood: Proposed Amendment to the Constitution.

Second reading — To amend Section 1, Article I, by providing that suits may be brought against the State as against an individual.

The President — Committee on Judiciary.

Reports of standing committees.

Mr. J. L. O'Brian—I ask leave to submit joint report of the Committees on Rules, Minor Offices, and Contingent Expenses.

The President—The Secretary will read the report.

The Secretary—Joint report of the Committee on Rules, the Committee on Minor Offices and the Committee on Contingent Expenses.

In order that the delegates may have adequate stenographic service your Committees recommend that the Convention employ twelve additional stenographers at a salary of not more than \$4 a day each, to do official stenographic work for the delegates and such other work as may be assigned to them by the official stenographer.

And your Committees further recommend that the Convention employ for each of the Vice-Presidents of the Convention a secretary at a salary of not more than \$10 a day each.

And your Committees further recommend that arrangements be made so that letters and other communications in relation to the official business of the Convention be forwarded prepaid at the expense of the Convention, and recommend the following practice:

That letters and other communications relating to the official business of the Convention be delivered by the delegates to the postmaster of the Convention, who shall place the necessary postage stamps thereon, and shall also cause the same to be marked "Official business, State of New York," and to carry out these recommendations your Committees recommend the following resolutions:

Resolved, That the Convention employ twelve additional stenographers to be designated by the official stenographer, at a salary of not more than \$4 a day each, to do the official stenographic work of the delegates, and such other work as shall be assigned to them by the official stenographer of the Convention.

And Resolved, That the Convention employ for each of the Vice-Presidents of the Convention a secretary at a salary of not more than \$10 a day each.

And Resolved, That there be appropriated \$500 for the purchase of postage stamps, for the use of the postmaster of the Convention, in prepaying the postage upon official letters and communications delivered to him by any of the delegates, the postmaster, however, causing all such letters and communications to be marked "Official business, State of New York."

The Secretary—The report is signed by John Lord O'Brian, chairman of the Committee on Rules, Jesse S. Phillips, chairman of the Committee on Minor Offices, and S. K. Phillips, chairman of the Committee on Contingent Expenses.

Mr. J. L. O'Brian—Mr. President, in explanation of this report, I desire to say that the provision made for stenographic aid in this report is a provision to provide stenographers for the general use of the delegates of the Convention. This has no relation, however, to the stenographic work in committees, and the plan which the committees have agreed upon is that any delegate desiring the aid of a stenographer at any time shall call upon the official stenographer of the Convention, Mr. Marshall, to designate such a stenographer for his assistance.

I move the adoption of this report and of the three resolutions embodied therein.

The President—Are you ready for the question upon the resolutions—upon the adoption of the report which would cover the adoption of the resolutions? All in favor of the motion say Aye, contrary No. The report is agreed to and the resolutions as recommended are adopted.

Mr. Wickersham—I present the report from the Committee on Judiciary and I move its adoption.

The Secretary—The Committee on Judiciary reports the following resolution and moves its adoption: Resolved, That the Committee on Revision and Engrossment be authorized and directed to employ an expert parliamentary draughtsman to assist members and committees in the preparation and formulation of resolutions and Proposed Amendments to the Constitution, under such regulations as from time to time may be adopted by the said Committee.

Mr. Wickersham—Mr. President, the resolution is made pursuant to a resolution referring the subject to the Committee on Judiciary adopted last Thursday.

The President—Is the Convention ready for the question upon this resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Any further reports of standing committees?

Reports of special committees.

There is no third reading of Proposed Constitutional Amendments.

No general orders.

No special orders.

Mr. J. L. O'Brian—Mr. President, may I ask that the chairmen of the various committees file not later than to-day with the Committee on Rules the names of the clerks and stenographers respectively selected by them, as the Committee desires to make a report on that subject to-morrow.

Mr. Quigg—Mr. President, I should like to say to my friend from Buffalo, that Judge Rodenbeck, the chairman of the Revision

and Engrossment Committee, is not here yet. He has suggested to me, as the second member, the calling together of the Committee and the naming of a man for secretary, but I understand that he has been seized upon by a Committee that is larger in numbers and consequently will have more votes here, and I guess we shall have to let him go. Therefore, I would like to ask delay in the matter of that Committee until Judge Rodenbeck returns.

Mr. J. L. O'Brian—Mr. President, no report will be made except on the names suggested to the Rules Committee. The matter which you speak of, Mr. Quigg, will probably be covered by a supplementary report which will be made when the Committee receives word from the Committee on Revision and Engrossment.

Mr. C. A. Webber—Mr. President, may I suggest that the reading of these notices for Committee meetings ought not to be a regular practice every day. It ought not to be necessary, and the more effective way would be first to have the Committee post a notice on the bulletin board, and secondly, for each member to have on his desk a notice of any Committee meeting that he is to attend on a given day. Each Committee has its stenographer and that might easily be prepared and laid on the members' desks, and I move that hereafter no announcements be made of Committee meetings at the Convention.

The President—The Chair does not think itself competent to control the actions of the delegates in that manner, and it cannot entertain the motion.

The Chair will suggest that for a short period, while the committees are getting accustomed to their work, especial pains are necessary in the giving of notices. The committees have not as yet any stenographers or any clerks to do the work, and, therefore, we must do the best we can in a practical way to secure knowledge of the proposed meetings.

Mr. Quigg—May I suggest that the Chair or somebody else direct whosoever's business it is forthwith to furnish to every delegate in this Convention a key to his desk. I am sure that half of the Convention are without access to their desks, unless it is by somebody's courtesy, and then they have to run around and ask somebody to lock them up again, and it seems to me this ought to be attended to without further delay.

The President—The proper form or rule to adopt would be to instruct the sergeant-at-arms to pursue the members of the Assembly to their homes and recover from them keys which in many cases they have taken away with them. However, substitute or duplicate keys will be secured as soon as practicable.

Mr. Wickersham—I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All those in favor say Aye, contrary No.

The motion is agreed to and the Convention stands adjourned until to-morrow at 10 o'clock a. m.

Whereupon at 1:25 p. m., the Convention adjourned to meet Wednesday morning, May 5, 1915, at 10 o'clock.

WEDNESDAY, MAY 5, 1915

The President — The arrangement under which the clergyman was to be present this morning appears in some way to have failed. Let us pray.

Almighty God, we pray to Thee to guide our deliberations this day. Make us humble, sincere, devoted to the public service. Make us wise, considerate of the feelings and the opinions and the rights of others. Make us effective and useful for the advancement of Thy cause of peace and justice and liberty in the world. For Christ's sake, Amen.

Mr. Wickersham — I move that the reading of the minutes be suspended.

The President — It is moved that the reading of the Journal be dispensed with. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

The President — Presentation of memorials, including petitions, remonstrances and communications from individuals and from public bodies.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll by districts.

Mr. Marshall — I offer the following resolution.

The Secretary — By Mr. Marshall: Resolved, That the Clerk of the Court of Appeals be requested to examine the records of all cases argued in the Court of Appeals during the years 1913 and 1914, respectively, whether the same be reported in full or in memorandum, and to report with all convenient speed with respect to each of said years separately the following facts:

First, as to the general subject-matter of said causes;

Second, as to the number of cases involving questions of constitutional law;

Third, as to the number of cases involving the interpretation of general statutes of this State and of the United States;

Fourth, as to the number of cases involving questions of criminal law;

Fifth, as to the number of cases involving the interpretation of municipal charters ;

Sixth, as to the number of cases involving the interpretation of wills ;

Seventh, as to the number of cases in which appeals were allowed by the several Appellate Divisions, pursuant to Section 190 of the Code of Civil Procedure ;

Eighth, as to the number of cases in which appeals were allowed by the Several Appellate Divisions, pursuant to Subdivision 2 of Section 191 of the Code of Civil Procedure ;

Ninth, as to the number of cases in which appeals were allowed by a judge of the Court of Appeals, pursuant to Subdivision 2 of Section 191 of the Code of Civil Procedure.

Mr. Wickersham — I move that the resolution be referred to the Committee on Library and Information.

Mr. Marshall — Mr. Chairman, I ask for immediate consideration of this resolution because the facts that are called for will require some little time to prepare, and the information is very important to the Judiciary Committee, and with the consent of the chairman, I should ask that —

Mr. Wickersham — I should be obliged to object to that. The agreement in the Judiciary Committee yesterday was that this would be referred to the Committee on Library and Information which is to meet this afternoon.

Mr. Whipple — Mr. President, may I be permitted to interrupt the regular order for a moment? I notice standing behind the rail an aged man who was in the Convention in 1867, General Edward Merritt. I do not now remember just what our rules provide but I want to ask the privileges of the floor for him and that he may sit among us in some vacant seat.

The President — The amendment of the rule reported by the Committee on Rules and adopted last week gives to General Merritt the privilege of the floor which the Convention would be very glad undoubtedly to have him exercise.

Mr. Marshall — Mr. Chairman, I withdraw my request for immediate consideration, which was made through a misunderstanding.

The President — Mr. Marshall withdraws his request and the reference will be to the Committee on Library and Information. Those in favor of the motion will say Aye, contrary No. It is agreed to.

The Secretary — By Mr. S. K. Phillips, chairman of the Committee on Contingent Expenses: Resolved, That the official stenographer be allowed and paid for furnishing two transcripts of his notes, one to the Secretary and the other to the printer for

the Record twenty-five cents per folio of 100 words. Documents handed up to the desk for the Record shall be included. Stationery shall be furnished by the State.

The President — The Chair is in some doubt as to whether that resolution conforms to the rule. It has the effect of a statute and under the rule the resolution will stand over until to-morrow.

Propositions for Constitutional Amendment. The Secretary will call the districts.

The Secretary — By Mr. Latson: Proposed Amendment to the Constitution.

Second reading — To amend Section 6, Article III of the Constitution, in relation to the compensation of members of the Legislature.

The President — Referred to the Committee on the Legislature, Its Organization, etc.

The Secretary — By Mr. Latson: Proposed Constitutional Amendment.

Second reading — To amend Section 7, Article I, of the Constitution, in relation to compensation for taking private property.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Foley: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, by adding a new section thereto, in relation to Public Service Commissions for the first and second districts.

The President — Referred to the Committee on Public Utilities.

The Secretary — By Mr. Wagner: Proposed Constitutional Amendment.

Second reading — To amend Section 12 of Article VII of the Constitution, relating to improvement of highways.

The President — Referred to the Committee on State Finance.

The Secretary — By Mr. Wagner: Proposed Constitutional Amendment.

Second reading — To amend Section 4 of Article VII of the Constitution, limiting the power of the Legislature to create debts.

The President — State Finance.

Mr. Wagner — Mr. President, I ask unanimous consent to offer the following resolution. It is simply a resolution seeking information from the Comptroller, the State Comptroller.

The Secretary — By Mr. Wagner: Resolved, That the State Comptroller be requested to transmit to this Convention a statement showing the amount and term of all bonds issued under the provisions of Article VII of the Constitution and now outstanding; also the amount in each sinking fund for the redemption of such bonds, together with the amount which should be in each

sinking fund if such fund was maintained on a 3 per cent. amortization basis.

The President — Mr. Wagner asks unanimous consent for the present consideration, out of order, of the resolution now reported. Is there any objection?

Mr. Quigg — Mr. President, there is objection. I object.

The President — There is objection.

Mr. Quigg — Mr. President, my objection relates to the last paragraph of the resolution.

Mr. Wagner — Mr. President, does the delegate object to my offering the resolution or to its consideration at the present time?

Mr. Quigg — Mr. President, I have no objection to offering it, but I shall ask for its reference.

Mr. Wagner — Under the rules, it goes over for one day for debate.

The President — There will be no objection to the reception of the resolution out of order. The resolution is received, and will go over under the rule until to-morrow.

Mr. Eisner — Mr. President, I offer the following.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Article I, Section 8 thereof, in relation to the liberty of the motion picture screen.

The President — Committee on Bill of Rights.

Mr. Unger — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Unger: Proposed Constitutional Amendment.

Second reading — To create and maintain a free public college and university of the graduates of the State Common Schools.

The President — Committee on Education.

The Secretary — By Mr. Vanderlyn: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article IX of the Constitution, in relation to the maintenance and support of a system of free common schools.

The President — Committee on Education.

The Secretary — By Mr. McKean: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VII of the Constitution of the State of New York, relating to the Forest Preserve.

The President — This amendment cannot be received in its present form. If Mr. McKean will strike out those parts which make it in form a memorial from the Camp Fire Club, the substance of it can be preserved, but it is in form now a memorial

from the Camp Fire Club, incorporated in the body of the memorial a Proposed Amendment to the Constitution. As it now stands, it could have been received as a memorial, but it cannot now be received as a proposed amendment. The Secretary will make such changes in it as Mr. McKean wishes and indicates.

Mr. McKean — Mr. President, I ask leave to withdraw the amendment for the purpose of having proper corrections made.

The President — It is withdrawn.

The Secretary — By Mr. Tierney: Proposed Amendment to the Constitution.

Second reading — To amend Section 20 of Article VI of the Constitution, to prohibit judges of the courts of record from practicing law.

The President — Committee on Judiciary.

The Secretary — By Mr. Tierney: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article II of the Constitution, in relation to the enactment of election and registration laws.

The President — Committee on Suffrage.

The Secretary — By Mr. E. N. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 18 of Article VI of the Constitution, by increasing the jurisdiction of inferior local courts.

The President — The Committee on Judiciary.

The Secretary — By Mr. Bockes: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, Section 18, in relation to inferior local courts, by increasing territorial jurisdiction.

The President — Committee on Judiciary.

The Secretary — By Mr. Bockes: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, Section 10, in relation to counties, cities, towns and villages, by permitting gifts of stocks and bonds.

The President — Committee on Counties, Towns and Villages, Their Organization, Government, etc.

The Secretary — By Mr. Bockes: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 1, in relation to State officers, by providing for the election of a Commissioner of Agriculture, and four-year terms for State officers.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Bockes: Proposed Amendment to the Constitution.

Second reading — To amend Article V, by repealing Section 2, in relation to time of election of State officers.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article X, Section 3, in relation to duration of terms of office of certain State officers.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 15, in relation to the manner of passing bills.

The President — Committee on Legislative Powers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article II, Section 5, in relation to manner of voting.

The President — Committee on Suffrage.

Mr. Kirby — Mr. President, I offer the following amendments.

The Secretary — By Mr. Kirby: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, Section 17, conferring the judicial functions of justices of the peace in the towns of the State on masters of the County Court.

The President — Committee on Judiciary.

The Secretary — By Mr. Kirby: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 26, relative to boards of supervisors, limiting their powers, and conferring upon county comptrollers the right heretofore exercised by boards of supervisors in purchasing supplies and auditing bills for the same.

The President — Committee on Counties, Towns and Villages, Their Organization, Government, etc.

The Secretary — By Mr. Westwood: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article I, by permitting five-sixths of a jury to render a verdict in civil cases, and by permitting the defendant in criminal prosecutions to waive a jury.

The President — Committee on Bill of Rights.

Reports of standing committees.

Mr. O'Brian — From the Committee on Rules, I hand up the following report and move its adoption.

The Secretary — Mr. J. L. O'Brian from the Committee on Rules submits the following report.

By Mr. J. L. O'Brian: Resolved, That the following named persons be employed by this Convention as clerks and stenographers for the respective committees hereinafter named, at the compensation set opposite their names.

Committee on Cities — Clerk, Thomas C. Eipper, \$10 per day; stenographer, I. M. Coonley, \$5 per day.

Committee on Judiciary — Clerk, A. Perry Osborn, \$10 per day.

Committee on Governor and Other State Officers — Clerk, Walter Arndt, \$10 per day; stenographer, Katherine Cullen, \$5 per day.

Committee on Taxation — Clerk, Achille H. Block, \$7 per day; stenographer, Mary E. Cummings, \$5 per day.

Committee on Finance — Stenographer, Mabel Pearson, \$5 per day.

Committee on Industrial Relations — Clerk, Benjamin W. Day, \$10 per day; stenographer, Sarah Pilloff, \$5 per day.

Committee on County, Town and Village Government — Clerk, Washington Russell, \$10 per day; stenographer, Joseph Downey, \$5 per day.

Committee on Conservation — Clerk, E. H. Hall, \$10 per day; stenographer, Bertha G. Frost, \$5 per day.

For the two Committees on Canals and Militia — Clerk, William F. Schottin, \$7 per day; stenographer, Lillian Temple, \$5 per day.

For the two Committees on Public Utilities and Civil Service — Clerk, Homer M. Wallace, \$7 per day; stenographer, Walter F. Berry, \$5 per day.

For the two Committees on Legislative Powers and Education — Clerk, George D. Steritt, \$10 per day.

For the two Committees on Corporations and Banking — Clerk, W. Paul Eddy, \$7 per day.

For the two Committees on Privileges and Elections and Library — Clerk, W. S. Coffey, \$7 per day; stenographer, William D. Fuller, \$5 per day.

For the two Committees on Contingent Expenses and Prisons — Clerk, Cornelius Shufelt, \$10 per day.

The President—Are you ready for the question upon the motion to adopt the report of the Committee on Rules. Mr. O'Brian, do you propose to offer a separate resolution for the appointment of these officers?

Mr. O'Brian — Mr. President, I move that the persons named in this report be appointed or employed by the Convention. This

is only a partial report. There will be other names submitted later.

The President — The motion is that the report of the Committee be adopted and the persons named therein be appointed to the respective positions specified and that their compensation be fixed as stated in the report.

All in favor of the motion will say Aye, contrary No. The motion is agreed to, the report is adopted and the persons named are appointed and their compensation is fixed as stated in the report.

Mr. Brackett — Those of us who have not handed in the names of our clerks and stenographers and who intend to hand them in later, will they be accepted as the appointees?

Mr. J. L. O'Brian — Mr. President, under the provisions of the present Constitution I take it that these persons must be named specifically by the Convention itself. If the Senator will submit the names they will be placed on a supplemental report of the Committee, I hope to-morrow. I again request that the chairmen of the committees, as expeditiously as possible, file these names either with the chairman of the Rules Committee or the chairman of the Committee on Minor Offices.

Mr. J. L. O'Brian — Mr. President, I submit the following Communication from the official stenographer, together with a resolution, and I move the adoption of the resolution.

The Secretary — Pursuant to resolution heretofore adopted authorizing and directing the official stenographer to designate twelve general stenographers for the use of the Convention, I hereby designate the following: Gertrude Powers, James S. Clair, Lena Christenson, Mabel Jameson, Alice A. Ladd, Elsie Truax, Helen N. Myers, Helen Dittrich, Freda Dunger, Rena Collins, Edna M. Gould, Frances Dulin. John K. Marshall, Official Stenographer, Constitutional Convention.

By Mr. J. L. O'Brian — Resolved, That the Convention employ as official general stenographers the persons named in the communication of the Official Stenographer at a per diem compensation of \$4 each.

The President — Are you ready for the question upon the resolution offered by Mr. O'Brian? All in favor of the resolution say Aye, contrary No. The resolution is agreed to and the persons are appointed.

Mr. J. L. O'Brian — In order that the terms of the statute may be complied with requisitioning the necessary rooms in the Capitol for the use of this Convention, I offer the following resolution.

The Secretary — By Mr. J. L. O'Brian: Resolved, That the Secretary be directed to notify forthwith the Superintendent of

Public Buildings that this Convention requires for its use the following rooms in the Capitol: Assembly Chamber, Senate Chamber, Assembly Parlor, New Assembly Library, Speaker's Room, Assembly Clerks Rooms, post-office and locker room and rooms Nos. 226, 227, 228, 229, 232, 233, 235, 236, 237, 329, 332, 341, 342, 344, 345, 346, 400, 401, 423 and 424.

The President — Are you ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Any further reports of the standing committees?

Mr. J. S. Phillips — Mr. President, I submit a report from the Special Committee on Minor Offices, a supplemental report, with resolution attached, and I move its adoption.

The Secretary — Mr. J. S. Phillips, from the Committee on Minor Offices, submits the following supplemental report:

Resolved, That the following positions be and they are hereby created, and that the compensation therefor be as hereinafter stated: A Journal clerk at a salary of \$2,000; an index clerk at a salary of \$1,500; an assistant postmaster at \$5 per day; a mail and document carrier, at \$5 per day; a superintendent of documents at \$5 per day; an assistant superintendent of documents at \$5 per day; a stationery clerk at \$5 per day; a tally clerk at \$5 per day; a doorkeeper at \$5 per day; a doorkeeper at \$5 per day; a doorkeeper at \$5 per day; a chief of general clerks at \$10 per day; a stenographer to the Secretary of the Convention at \$5 per day.

The President — Are you ready for the question upon the adoption of the report by Mr. Phillips and the resolution recommended by the special select committee? Are there any remarks to be made on the adoption of the report of this Committee. All in favor of the adoption of the report will say Aye, contrary No. The report is adopted and the resolution is agreed to.

Any further reports from select committees? The Secretary informs the Chair there is another resolution.

The Secretary — By Mr. J. S. Phillips: Resolved, That the following named persons be and they are hereby elected to the positions indicated below, and that the compensation pursuant to resolution heretofore adopted be fixed at the amount set opposite their names respectively:

Position	Name	Compensation
Journal clerk.....	A. Miner Wellman...	\$2,000.
Index clerk.....	Roscoe C. Derrick...	1,500.
Tally clerk.....	Herbert T. Reed.....	\$5 per day.
Asst. postmaster.....	C. B. Wood.....	5 per day.
Mail and document carrier.	P. J. Hendricks.....	5 per day.
Supt. of documents.....	Benjamin W. Loring..	5 per day.

Position	Name	Compensation
Asst. supt. of documents . . .	John S. Patterson . . .	\$5 per day.
Stationery clerk	Frank J. Schumm . . .	5 per day.
Doorkeeper	Patrick J. Calnon . . .	5 per day.
Doorkeeper	W. B. Clerk	5 per day.
Chief of general clerks	A. C. Brink	10 per day.
Stenographer to Secretary . . .	Alice D. Wilflow . . .	5 per day.

JESSE S. PHILLIPS,
Chairman, Committee on Minor Offices.

The President — All in favor of the adoption of the report of the Committee and the resolution submitted say Aye, contrary No. It is agreed to.

Mr. Buxbaum — Mr. President, may I call attention to an error in the Record on page 59? There is a reference here on page 59: "The Secretary — By Mr. Clearwater: A Proposed Amendment to amend Article VI of the Constitution." I find that, after conference with Judge Clearwater, no such amendment was offered. A paper was offered in the nature of a memorial, and I ask that it be recorded as a memorial in relation to Article VI of the Constitution. There is no such amendment among the Proposed Amendments, and I was misled.

The President — The Record is correct. The paper was offered by Judge Clearwater as a Proposed Amendment to the Constitution; but the paper was, upon examination, found to be not in the form of an amendment, but in the form of a memorial, and it was received and entered as a memorial. But the things which appear in the Record were actually spoken.

Mr. Clearwater — Mr. President, what I offered was the report of the Committee of Fifteen of the New York State Bar Association, of which Judge Cullen was chairman, and those portions of the report which were adopted by the State Bar Association at its meeting in March. I did not offer them, as Mr. Buxbaum says, as an amendment to the Constitution, but presented them as a memorial indicating the views of the original Committee of Fifteen, and the views of the State Bar Association as adopted at its joint meeting. It appearing that that was offered as an amendment to the Constitution, that was hardly correct.

The President — The Record contains this statement: "Mr. Clearwater — I have handed up for the twenty-seventh district, the recommendation of the New York State Bar Association."

"Secretary — By Mr. Clearwater: A Proposed Amendment to Article VI of the Constitution.

"The President — Referred to the Committee on the Judiciary."

On examination, it proved to be not what the Secretary supposed, but what Mr. Clearwater stated it was, and accordingly, the paper went to the Committee on Judiciary as a memorial, and not as a Proposed Amendment.

Third reading of Constitutional Amendments.

Unfinished business in general orders.

Special orders.

General orders.

Report of the Committee on Judiciary.

This concludes the morning's business.

The President — Mr. Wickersham moves that the Convention now adjourn. All in favor say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:55 a. m., the Convention adjourned to meet Thursday morning, May 6, 1915, at 10 o'clock.

THURSDAY, MAY 6, 1915

The President — The Convention will please be in order.

Prayer will be offered by Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Our Father and our God, we pray that Thou wilt endue us with the spirit of wisdom and understanding, that we may become earnest co-workers with Thee in all that promotes truth and righteousness, peace and good will among men. Teach us to think Thy thought, which is truth, and to feel Thy feeling, which is love, and to will Thy will, which is eternal right, so that in all that pertains to the labor of life, we may honor ourselves, our country and our God. Grant unto us an adequate appreciation of the dignity and value of the work to which we now set ourselves. May it claim and receive the full service of our strength and skill, and through its efficient accomplishment, may there be some worthy contribution to the peace and progress of our race. For Thy Name's sake, Amen.

Mr. Wickersham — Mr. President, I move that the reading of the Journal be dispensed with.

The President — All in favor say Aye, contrary No. The motion is agreed to.

Mr. Westwood — Mr. President, directly after the session closed last night, I found this perfectly good fountain pen on the desk, which the owner may have by coming to the desk.

The President — That is no doubt duly noted.

Petitions and memorials.

Communications from the Governor and other State officers.

The President — Under the head of petitions and memorials the Chair hands down certain letters and communications which will be referred to the proper committees without reading unless reading is called for.

Notices, motions and resolutions by districts.

Mr. Wickersham — In the absence of Mr. J. S. Phillips, the chairman of the Committee on Library and Information, I offer this report.

The President — We have not yet reached the order of reports of standing committees. It will be laid aside until that order is reached.

The Secretary — By Mr. Wiggins: Resolved, That the Secretary of this Convention procure as speedily as possible from the Secretary of State of each State of the Union or from such other sources as shall be most convenient, a record of the number of State officers appearing upon the ballot in each State at the general election for State officers.

The President — What disposition does Mr. Wiggins wish to have made of the resolution?

Mr. Wiggins — Under the rules, I understand it goes to the appropriate Committee, which reference should be left to the discretion of the Chair.

The President — Referred to the Committee on Library and Information.

Mr. Landreth — At the session of the Convention yesterday there was a statement by the Chair that certain provisions were being made for furnishing the libraries of the State with copies of the daily publications of this Convention. That seemed to me to be a very thoughtful undertaking but I would like to suggest, and have done so in this resolution, that in order that these publications may be kept properly on file and preserved for permanent use during the life of this Convention, at least until the Constitution submitted shall be voted on in November, these publications should be provided with binders. This resolution covers that. I move its adoption.

The Secretary — By Mr. Landreth: Resolved, That the Committee now having under consideration the question of furnishing to libraries and to institutions in the State copies of some or all of the publications daily issued by the Convention be also requested to consider the question of furnishing with such copies of the publications sets of binders for them, to the end that these publications may be made more readily and permanently accessible for reference by the people of the State.

The President — Under the rules that goes specifically to the Committee on Contingent Expenses, as it involves an increased

expenditure, particularly in the matter of postage. The other Committee having charge of the subject will take notice of the resolution as it will appear in the printed Record.

Mr. Cullinan — Mr. Chairman, for information, I would like to inquire when the Committee intends to make a report on the subject of furnishing these reports and other papers of the Convention to the public, if they are ready to make that announcement.

Mr. Berri — Mr. President, one of the members of the Printing Committee is also president of the State Editorial Association, and he has issued a circular to the various newspapers of the State, inquiring as to whether they desire these copies sent to them or not. He is receiving replies. I do not know how many he has received up to date, but that is only one of the provisions that we are trying to discover, so that I presume that the report — I do not know what Committee that may come under, but I presume that the libraries are also being looked after, and it would take several days or a week, perhaps, until you get the information properly.

Mr. Cullinan — That is satisfactory, Mr. President.

The President — The Secretary advises the Chair that the information which was mentioned the other day in regard to the libraries, making up a list of the libraries, and a list of the educational institutions, is in progress, and it is hoped that it will be completed next week.

Mr. Quigg — Mr. President, can we have something said on that question now? For example, the interest is nation-wide, and I have applications from several professors of colleges in other States who would like to be kept advised from now on. Could such things as that be sent now, or must we wait longer?

The President — The Chair stated to the Convention the other day that he had taken the liberty, probably without full authority, to say to the Secretary that he might comply with all applications for the mailing of printed documents, and to request members of the Convention to hand to the Secretary all such requests to be complied with, and as upon that statement no objection was made in the Convention, the Chair has assumed that it met with the approval of the members of the Convention. So that, unless it should prove that the multitude of applications becomes a burden, so long as they are kept within the moderate limits that now appear, any delegate receiving a request for printed documents may hand it to the Secretary and have the name of the applicant put on the mailing list and the document sent.

Mr. Wickersham — Mr. President, I submit the following resolution, and ask for unanimous consent for its immediate consideration.

The Secretary — By Mr. Wickersham: Resolved, That the Secretary of the Convention cause to be printed, for the use of the members of the Convention, 1,000 copies of the Constitution of the State precisely as the same was submitted to and approved by the people in 1894, and any and all amendments thereto precisely as such amendments respectively were submitted to and approved and ratified by the people.

Mr. Wickersham — Mr. President, all of the copies of the Constitution that have come to my attention contain some headlines to the various sections, some characterization which I believe is almost always unofficial. I think it quite important that we should have before us the Constitution precisely in the form in which the people have adopted it, for our consideration here, and I therefore submit this resolution asking for the printing of a sufficient number of copies for our use.

The President — Is there objection to the present consideration of the resolution?

Mr. M. J. O'Brien — Mr. President, I am in entire accord with this resolution, because I have discussed the subject with Mr. Wickersham, but it is proper to say we already have in various forms copies of the Constitution. As I understand this resolution, therefore, I favor it. I think it is intended to have, pretty much in the shape in which bills in the Legislature are printed, copies of the Constitution which can be carried around on the person by simply folding up and placing in the pocket, and which has omitted from it these designations or headlines which qualify the sections themselves, and with that understanding, I approve of the suggestion to have 1,000 copies.

The President — The Chair hears no objection to the present consideration of the resolution. All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

The President — In order that there shall be no mistake, it is the understanding of the Chair that that copy of the Constitution be printed as a document in the same form as the documents already printed.

Mr. Wickersham — Mr. President, that was my intent. I have submitted another resolution and asked for unanimous consent for its immediate consideration.

The Secretary — By Mr. Wickersham: Resolved, That hereafter the Convention dispense with the reading of the Journal and that amendments thereto may be made on the legislative day following that on which the printed Journal is placed on the desks of the members.

Mr. Wickersham — Mr. President, that is substantially the same resolution as adopted in the Convention of 1894, at a somewhat later date in its deliberations than the present, but it would

dispense with the diurnal motion to dispense with the reading of the Journal, and also with the formality of reading it, and allow the members, after they have read the printed Journal, to move to make any corrections necessary.

The President — Is there objection to immediate consideration of the resolution? The Chair hears none. The resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Propositions for Constitutional Amendment.

The Secretary — By Mr. Latson: A Proposed Amendment to the Constitution.

Second reading — To amend section 6 of Article I of the Constitution, in relation to arrest or imprisonment in civil actions or proceedings.

The President — Referred to the Committee on the Judiciary.

Mr. Marshall — Mr. President, may I ask what that was?

The President — It is similar to the Proposed Amendment which we discussed a few days ago relating to arrest in civil action, and I make the reference following the conclusion which the Chair then arrived at.

The Secretary — By Mr. Bayes: A proposition to amend the Constitution.

Second reading — To amend Article I of the Constitution, by providing for the abolition of capital punishment.

The President — Referred to the Committee on the Judiciary.

Mr. Marshall — Mr. President, a similar motion has already been referred to the Committee on Bill of Rights, one which was introduced by Mr. Betts a few days ago. That Committee now has that under consideration.

The President — The Committee on Bill of Rights.

Mr. Newburger — Mr. President, I offer the following.

The Secretary — By Mr. Newburger: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution of the State of New York, creating a new court to be known as the Land Registration Court.

The President — Committee on Judiciary.

Mr. Baldwin — Mr. President, I offer the following.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article III of the Constitution, in relation to the enactment of laws levying direct State taxes.

The President — Committee on Taxation.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, Section 7, of the Constitution, by adding a new subsection providing for the creation of a fish and game commission.

The President — Committee on Governor and Other State Officers.

Mr. Marshall — Mr. President, I offer the following.

The Secretary — By Mr. Marshall: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article VIII of the Constitution, relative to cumulative voting by shareholders of stock corporations at all corporate elections.

The President — Committee on Corporations.

The Secretary — By Mr. C. Nicoll: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, Section 1, by providing for the appointment of justices of the Supreme Court by the Governor, by and with the advice of the Senate, instead of their election.

The President — Committee on Judiciary.

The Secretary — By Mr. C. Nicoll: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, Section 4, in relation to the official terms of the justices of the Supreme Court.

The President — Committee on Judiciary.

The Secretary — By Mr. C. Nicoll: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 1, by providing for the appointment of State officers by the Governor, by and with the advice and consent of the Senate.

The President — Committee on Governor and Other State Officers.

The Secretary — By Mr. Wagner: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article VII of the Constitution, in relation to exempting the State from taxation.

The President — Committee on Taxation.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Article II, Section 4, of the Constitution, to authorize the Legislature to enact laws authorizing the registration of commercial men or other voters who shall have been absent from their registration districts on the days provided for personal registration.

The President — Committee on Suffrage.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, Section 7, of the Constitution, relative to the lands constituting the Forest Preserve.

The President — Committee on Conservation.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding thereto a new section, providing for the appointment of a Conservation Commissioner and prescribing his duties.

The President — Committee on Conservation.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to eligibility, acceptance of appointments and disqualifications of members of the Legislature.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Franchot: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by striking therefrom the provisions of Section 8 of said article, prohibiting the creation of offices for the weighing, gauging, measuring, culling or inspecting of any merchandise, product, manufacture or commodity whatever.

Mr. Franchot — Mr. President, I would request, if it is considered proper, that that be referred to the Committee on Industrial Interests and Relations.

The President — That reference will be made.

The President — Reports of standing committees.

Mr. J. L. O'Brian — The Committee on Rules makes this supplemental report and I move the adoption of the resolution therein embodied.

The Secretary — The Committee on Rules as a supplemental report recommends the adoption of the following: Resolved, That the following named persons be employed by this Convention as clerks and stenographers for the respective Committees herein-after named at the per diem compensation set opposite their names, viz.:

Committee on the Bill of Rights — Clerk, Sydney B. Carrigan, \$10; stenographer, Robert C. Poskanza, \$5.

Committee on Legislative Powers — Stenographer, L. H. Haskins, \$5.

Committee on the Suffrage — Stenographer, Clara L. Herzog, \$5.

Committees on Corporations and Banking and Insurance — Stenographer, Anna O'Neil, \$5.

The President — Is there objection to the present consideration of the resolution? The Chair hears none. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Wickersham — Mr. President, I submit the report from the Committee on Library and Information.

The President — The Secretary will read the report presented by Mr. Wickersham.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution relative to obtaining certain information from the Clerk of the Court of Appeals, introduced by Mr. Marshall on May 5th; and the resolution referring to the same subject, introduced by Mr. Wiggins on April 28th, reports that it has considered both said resolutions, after conference with the Judiciary Committee and said Committee reports in favor of the adoption of the following resolution in place of the resolutions above mentioned.

From the Committee on Library and Information: Resolved, That the Clerk of the Court of Appeals be requested to examine the records of all cases argued in the Court of Appeals during the years 1913 and 1914, respectively, whether the same be reported in full or in memorandum, and to report with all convenient speed with respect to each of said years separately, the following facts:

First, as to the general subject-matter of such causes;

Second, as to the number of cases involving questions of constitutional law;

Third, as to the number of cases involving the interpretation of general statutes of this State and of the United States;

Fourth, as to the number of cases involving questions of criminal law;

Fifth, as to the number of cases involving interpretation of municipal charters;

Sixth, as to the number of cases involving the interpretation of wills.

Seventh, as to the number of cases in which appeals were allowed by the several Appellate Divisions pursuant to Section 190 of the Code of Civil Procedure, and that he state separately the number of such cases in which appeals were so taken under each subdivision of said section;

Eighth, as to the number of cases in which appeals were allowed by the several Appellate Divisions, pursuant to Subdivision 2 of Section 191 of the Code of Civil Procedure, and that he state separately the number of such cases in which appeals were so taken under each subdivision of said section;

Ninth, as to the number of cases in which appeals were allowed by a judge of the Court of Appeals pursuant to Subdivision 2 of Section 191 of the Code of Civil Procedure;

Tenth, as to the number of cases of appeal filed with the court in which the decision in the Appellate Division was not unanimous;

Eleventh, as to the total number of cases on appeal which had been placed upon the calendar but not reached for argument on the 1st of January for each year during the past five years.

Mr. Wickersham — Mr. President, I move the approval of the report and the adoption of the resolution recommended.

Mr. Westwood — Mr. President, may I ask the chairman of the Judiciary Committee whether the resolution as introduced includes a request for the total number of records during the years 1913 and 1914? I did not observe it as read. It seems to be altogether essential. I have no doubt the Clerk would incorporate that information, even if the resolution did not request it, but it should be here, it should be incorporated in order to make it complete.

Mr. Wickersham — It does not call for it specially in that form, Mr. Chairman, but substantially that information is embodied in the request, and will be included in the information called for.

The President — The chairman of the Committee on Judiciary asks for the present consideration of the resolution. Is there any objection? The Chair hears none. The resolution is before the Convention. All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Mr. Hale — Mr. President, the Committee on Public Utilities reports in regard to a resolution introduced by Mr. Westwood.

The Secretary — Mr. Hale, from the Committee on Public Utilities, to which was referred the resolution relative to calling for information from the Commissioner of Highways, reported in favor of the adoption of the resolution, amended to read as follows: Resolved, That the Commissioner of Highways be requested to report to this Convention, as soon as practicable, the following information in respect to each of the counties of the State pertaining to the so-called State highways and the so-called county highways separately:

First, the mileage completed or under contract, and the cost thereof, paid or to be paid from the first \$50,000,000 highway bond issue;

Second, the amount of money allotted from the second \$50,000,000 highway bond issue.

Mr. Hale — I move the adoption of the resolution.

The President — The chairman of the Committee on Public Utilities asks for the present consideration of the resolution. Is there any objection? The Chair hears none. The resolution is before the Convention. Mr. Hale moves the adoption of the resolution. All in favor of the motion will say Aye, contrary No. The resolution is agreed to.

Mr. Wagner — Mr. President, I desire to call up the resolution introduced by me yesterday and ask for its adoption, if there is no objection.

The President — The Secretary will report the resolution coming over from the previous day.

The Secretary — By Mr. Wagner: Resolved, That the State Comptroller be requested to transmit to this Convention a statement showing the amount and term of all bonds issued under the provisions of Article VII of the Constitution and now outstanding; also the amount of each sinking fund for the redemption of such bonds, together with the amount which should be in each sinking fund if such fund was maintained on a 3 per cent. amortization basis.

The President — The resolution is now before the Convention.

Mr. Quigg — Mr. President, informed as I am that this information in full or in part is contained in the Comptroller's report, I should feel inclined to object to its passage; but, informed also that members of the Committee on Taxation think it ought to be here, I will not oppose it, but I do want to say this: That if we are going to bring here from the Comptroller's office or from other State officers information which is easily accessible to us by turning over the pages of their reports, we are very likely to have — if we carry it far we are very likely to have a bill which will considerably overrun our appropriations before this Convention adjourns. I think the principle is entirely bad. All we have got to do to get this information is to look at the Comptroller's report, as I understand it, and I hope that there will be few similar resolutions, unless the Convention does not care anything about what expense it is going to put itself to.

Mr. Blauvelt — Mr. President, I would move an amendment to the resolution for the purpose of making it apply to all State bonds. I understand that the resolution, as introduced by Senator Wagner, applies only to the Canal Fund. I think it would be well, in having this report from the Comptroller, that it should cover the highway bonds and other bonds of the State.

I move that amendment to the resolution so as to cover all bonds of the State.

Mr. Wagner — Mr. President, I have no objection to that amendment. I want to say, in answering Delegate Quigg, that

we just a moment ago adopted a resolution which came from the Committee on Public Utilities, which information, if we wanted to investigate the reports of the Comptroller's office and the State Highway Commission, we could get. But in the form in which we will get it under the proper resolution a moment ago adopted, it will be much more convenient for the delegates to the Convention. And so this information, no doubt, can be secured, if delegates will have the time to make an investigation of the different reports of the Comptroller's office, but the question of these sinking fund contributions is going to be one of the important questions to be considered by this Convention, and I think it will be very convenient and necessary for the Convention — for the delegates to have this information complete before them when the discussion comes up, and I think it is a very important and a very necessary thing, and I don't think that I am establishing any very serious or bad precedent.

Mr. Stimson — Mr. President, the resolution relates to a matter which is under consideration before the Committee on State Finance, and it is one of the important questions, or deals with one of the important questions which is being discussed by that Committee. The subject-matter of this resolution was informally discussed by the Committee at its meeting yesterday, and it was the opinion of those who discussed it that it would be very advantageous to have the information in the form in which this resolution calls for it, and which would be produced by the passage of the resolution for the benefit of the Convention as a whole.

Mr. Wickersham — Mr. President, I simply desire to say that one of the purposes, as I understand it, for establishing a Committee on Library and Information, was, so far as possible, to prevent the calling upon State officials and others for information which was already embodied in official documents or otherwise available to any one that would care to look over them, and in general the policy of calling upon State officers for information embodied in an official report is one I think should be condemned. But, of course, there arise questions, such as the one now under consideration, where it is a manifest convenience to the Committee having the subject under inquiry to request information in a specific form which can be given by the official addressed without very much trouble, but great convenience to the Committee, and for that reason, I support Senator Wagner's motion.

Mr. Wiggins — The information called for in the resolution is entirely desirable, but the amendment as offered by Mr. Blauvelt emphasizes, I think, the necessity of strictly adhering to the rule which in substance provides that all such resolutions shall be

referred to the proper committee. Senator Wagner has suggested an idea in his resolution which should probably be adopted in this Convention; Mr. Blauvelt suggests another one which is equally good and I think by reference of these various resolutions to the Committee on Library and Information, or such other Committee having the subject-matter under consideration, would probably facilitate the work of the Convention and embody in one report information on the same general subject which may be called for from time to time in different reports. Therefore, I object to the consideration of the resolution and as an amendment move that it be referred to the proper committee to report.

Mr. Low — Mr. President, I do not know that any serious difficulty would arise from referring this resolution and the Proposed Amendment for the purpose of asking for the information, but I would like to add this thought to what has been already said. No question which will come before this Convention more immediately concerns the people of the State than the question involved in the money in the State sinking fund. That surplus at the present time, or last September, was about thirty millions of dollars. It seems to me that the information now asked for is of great consequence not only to this Convention but to the people of the State. It is available in the Comptroller's report, there is no doubt about that; but by having it printed as a separate document we shall not only have it in a far more convenient form for our own use, but that circumstance will bring it to the attention of the press of the State and the people of the State so that they shall understand the problems we have to deal with better than they otherwise would. I, therefore, hope that either by direct action now or by action of the Committee we shall get the information in the form asked for.

The President — Under the rule a resolution of this character is required to be referred to the appropriate committee. The object of that rule was to avoid calling for information which could readily be obtained otherwise, to prevent duplication of calls and to see that the terms of the call were in conformity to the possibilities of answer. The Chair would feel bound to make a reference to the Committee and would hold that the Committee on Library and Information was the proper committee. The Chair suggests that Mr. Wagner and Mr. Blauvelt consult with the members of that Committee and put in form the amendment which has been suggested and accepted. That will have to be reduced to writing, that is, the resolution will have to be reformed to include that amendment, anyway, and perhaps that can readily be done by conference with the Committee on Information.

Mr. Wagner — Mr. President, I did not expect this discussion or opposition to this resolution. I think it is a rather simple

question, but in order that there may be no difficulty about it, I suggest that the resolution be referred to the Committee on Library and Information.

The President — That reference will be made.

Mr. Sheehan — Mr. President, may I make this suggestion, which occurs to me and no doubt it will occur to the Committee: That this resolution should be broad enough so as to call not only for the amount of the sinking fund to-day but for the amount of the sinking fund as it is expected to be and as it figures out on the tabulation from year to year until the payment, the due date of the bonds, so that we will know actually if it is a fact or not, as has been suggested, that the sinking fund, if annually carried out, will produce more than the amount of the bonds at the maturity of the bonds.

Mr. Parsons — Mr. President, I suggest that under the rules that resolution should properly be referred to the Committee on State Finances, instead of the Committee on Library and Information. Subdivision 2 of Rule 50 provides as follows: "Resolutions containing calls for information from any of the Executive departments, State, county or municipal officers or from any corporate bodies shall be referred to the proper committee. Such committee shall report thereon within three legislative days." The Record, passed at the last Convention, was that the resolutions were always referred to the Committee which had the subject.

The President — Mr. Parsons is correct in that reference to the last Convention. The creation of a Committee on Information, however, resulted from the imperfections of the method pursued at the last Convention. The phrase "information"—information frequently being desired for various committees, as in this case, the Committee on State Finance and the Committee on Taxation both need information relative to this subject, and the Committee on Information which has been created by this Convention did not exist during the last Convention. The Chair thinks that that is the proper committee to take cognizance of this resolution, and the Committee on State Finance and the Committee on Taxation may present to the Committee on Information any desire that they have to make. The document which will result from the call for information will be useful for the purpose of the various committees.

Mr. Wagner — Mr. President, I have no objection to the Committee including the information suggested by Governor Sheehan. The information would be sufficient which I have sought to secure by this resolution, but I have no objection to the Committee amplifying the resolution so as to get all information with reference to our sinking fund.

The President — That Committee on Information is a small committee. It can get together in five minutes at any time and take up a subject of this kind. The resolution is referred to the Committee on Library and Information.

Are there any other reports from select committees?

Mr. Tuck — Mr. President, in the absence of Mr. J. S. Phillips, chairman of the Committee on Minor Officers, I present the following report and resolution and move its adoption.

The Secretary — By Mr. Tuck, from the Committee on Minor Officers, submits the following supplemental report in the form of a resolution: Resolved, That the following named persons be and they hereby are elected to the positions indicated below and that their compensation, pursuant to resolutions heretofore adopted, be fixed at the amount set opposite their names respectively:

Name	Position	Compensation
Minnie C. Huller....	Chief telephone operator..	\$4.00 per day
Ellen M. B. Hagan...	Assistant telephone operator	2.50 per day
Elmer E. Lewis.....	Doorkeeper	5.00 per day
(In the place of general clerk Albert E. Wellman, resigned.)		
John W. Smith.....	General clerk	5.00 per day
(In the place of messenger James Hoey, resigned.)		
Thomas Marion	Messenger	3.00 per day
John F. Morris.....	General clerk	5.00 per day
C. A. Gett.....	Stenographer to President.	5.00 per day

The President — Is there objection to the present consideration of the resolution? The Chair hears none. The resolution is before the Convention. All in favor of the resolution will say, Aye, contrary No. The resolution is agreed to.

The President — Third reading of amendments. Unfinished business and general orders.

Mr. Berri — I find a manifest error in Document No. 4 on page 24 regarding the printing of each additional 100 copies, per page, of Convention bills. In the document it was printed \$1.04 per page; that should be ten cents per page. I ask that the Secretary see that the correction be made.

The President — On what page, Mr. Berri?

Mr. Berri — Page 24.

The President — Page 25, is it not, Mr. Berri?

Mr. Berri — Then it has been corrected, Mr. President, in some subsequent printing, because I hold in my hand Document

No. 4, and in my document book which I read yesterday afternoon, I found the error. Now I hold it here. It may have been corrected and changed.

Mr. Berri — Mr. President, I have here on page 25, which is the same printing as page 24, which was handed me by the Clerk — the correction has evidently been made by the printer.

The President — What is the motion of the delegate?

Mr. Berri — I simply wish to have the correction made and the proper sum shown, but in this book which is handed me, on page 25, the sum is \$1.04, and should be 10 cents per page.

The President — For each additional hundred copies, per page, 10 cents?

Mr. Berri — Yes, sir, it should be.

The President — Unless there is objection, the correction will be made as indicated by the chairman of the Printing Committee.

Special orders, general orders.

Mr. Austin — Mr. President, if it is in order, I request that Delegate Hinman be excused from attendance for the balance of the week.

The President — Mr. Austin moves that Mr. Hinman be excused for the balance of the week. All in favor of the motion will say Aye, contrary No. Carried.

Mr. Deyo — I would like to be excused from the session of this Convention to-morrow.

The President — Mr. Deyo asks to be excused from the session of the Convention to-morrow. All in favor of granting the request will say Aye, contrary No. The request is granted.

The President — The Chair wishes to repeat the notice to the delegates that they may obtain additional copies of the documents by application at the document room. It is requested also to call the attention of the delegates to the desire of the Secretary that they furnish their Albany addresses and their home addresses, for the purpose of making up the little pocket book or manual containing the names of committees, Committee assignments and delegates' seats — useful information about the Convention — regarding which Mr. Brackett spoke the other day. Blanks for that purpose have been distributed on the various desks. The book is intended to include, among other useful information, the home addresses and the Albany addresses of the delegates. The book cannot be made up until those addresses are furnished. Will you be kind enough to give those addresses to the Secretary?

Mr. Clinton — I have found no such blank as you have described on my desk, and some of the other members I think can make the same statement.

Mr. J. L. O'Brian — Mr. President, is there any business before the House?

The President — The distribution of blanks is now in order.

Mr. J. L. O'Brian — I desire to give notice that I will call up on Tuesday the proposed rule which was laid on the table limiting the time for the call of districts on the introduction of Constitutional Amendments to June 1st. At the time it was laid on the table, I stated that I would call it up later, on due notice, and I desire now to give that notice.

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — Mr. Wickersham moves the Convention now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention now stands adjourned till 10 o'clock to-morrow.

Whereupon, at 11:20 a. m., the Convention adjourned to meet Friday morning, May 7, 1915, at 10 o'clock a. m.

FRIDAY, MAY 7, 1915

The President — The Convention will please be in order.

Prayer will be offered by the Rev. Burton J. Hotaling.

The Rev. Mr. Hotaling — In Thy providence, Almighty God, Thou hast seen fit to call these men that they might deliberate concerning this great Constitution of our State. Therefore, we desire wisdom and blessing and understanding, upon them as they deliberate, may there be given plenteous grace and power and generous ideals. Hear us, and bless us, even through Christ. Amen.

The President — Are there any amendments or corrections to be made in the Journal as printed and distributed? If not, without objection, the Journal will stand approved.

Mr. Wickersham — Mr. President, the resolution adopted yesterday provided that the Journal should not be read, but that on the next legislative day corrections of the Journal would be in order.

The President — The Chair has called for corrections.

Mr. Wickersham — But it was the next legislative day after the printed copies were laid upon the desks of the members.

The President — Then the approval of the Journal will stand over until the next day of the session, Tuesday.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The secretary will call the districts.

Mr. McKinney — Mr. President, I offer the following resolution.

The Secretary — By Mr. McKinney: Resolved, That the Comptroller be requested to furnish to this Convention a statement of the amount of money appropriated or expended for all legislative purposes in each year from and including the year 1901 to the year 1915; such a statement shall include the amounts appropriated or expended in and for each year for legislative salaries, clerical or other assistance of every kind, printing, supplies of every kind, expenses of all general, special or investigating committees, including amounts paid to counsel or employees, and all incidental or other charges and expenses pertaining to the functions or activities of either house of the Legislature, or the members thereof during the period above specified.

The President — Referred to the Committee on Library and Information.

Mr. C. H. Young — Mr. President, I have an offering here from Mr. Marshall who is not here. I do not know the number of his district but I want to put it in at the right time.

The Secretary — By Mr. Marshall: Resolved, That whenever any public hearing is given by any Committee with respect to any matter likely to be considered by the Convention, notice of the time, place and subject-matter of such hearing be posted on the bulletin board or otherwise given to the delegates of the Convention, to enable them, if they desire, to attend the same.

Mr. Wickersham — Mr. President, I suggest that resolution be referred to the Committee on Rules.

The President — That reference will be made without objection. The Chair desires to call the attention of the members of the Committee on Rules to the fact that the resolution does not specify whose duty it shall be to post notices of public hearings.

Mr. Tanner — Mr. President, I offer the following resolution and move its adoption.

The Secretary — By Mr. Tanner: Resolved, That the Committee on Suffrage be discharged from further consideration of Proposed Amendment No. 74, Introductory No. 74, entitled "Proposed Constitutional Amendment. To amend Section 2 of Article IV of the Constitution, in regard to the eligibility of Governor and Lieutenant-Governor," and that the same be referred to the Committee on Governor and Other State Officers.

Mr. Tanner — I move its adoption, and I understand the chairman of the Committee on Suffrage consents that this reference and discharge be made.

The President — Is there objection to the discharge of the Committee on Suffrage from further consideration of this measure and the reference of it to the Committee on Governor and other State Officers? Without objection, that disposition will be made.

Mr. M. Saxe — Mr. President, I offer the following resolution and ask its immediate consideration by unanimous consent. I will make an explanation after it is read.

The Secretary — By Mr. M. Saxe: Resolved, That there be printed for the use of the Committee on Taxation 500 copies of the pamphlet entitled, "Comparative Statement of Constitutional Provisions Relative to Finance and Taxation and to Exemptions."

Mr. M. Saxe — Mr. President, the Committee has in its possession the document which was prepared by the Legislative Reference Department for the Constitutional Convention of 1907 of the State of Michigan. It is a very valuable document for the purposes of the Committee on Taxation, and for the purposes of the Committee on Finance. It is a collation of all the constitutional provisions relative to taxation and finance and exemptions from taxation in the various States. We are bringing it down to date, with the assistance of the Legislative Bill-drafting Bureau of Columbia University. It will be ready within two or three days, up to date. Now, the Committee on Taxation, when the matter was presented to them, requested that it be printed. It will cover some hundred pages. I think, in view of the fact that the State of Michigan was able to do this and the work is all ready, that we might take advantage of it, with only the expense of the printing. I think the chairman of the Committee on Finance will find it very helpful.

Mr. Quigg — May I inquire of Senator Saxe what sort of a volume he is purposing to have us print? It sounds to me something like the proportions of an unabridged dictionary.

Mr. M. Saxe — Not exactly, may I say to the gentleman from Columbia. I hold it here in my hand, and it will take some hundred pages of printed matter of about the size of the page which I am now showing to the gentleman.

Mr. Quigg — Mr. President, withholding for a moment the right to object to present consideration of the resolution, it seems to me that the time has come when the Convention ought to be informed as to what its, so to speak, overhead charges are, what daily expense we are under. I suppose that the Legislature has provided for us, in the light of the experiences of the last Convention, and it would be a matter of pride to us all if we could go home with our work well done, and say to our constituents that we have spent no more money than had been originally provided for us. Now, sir, I represent a tax-ridden county, very poor, almost as poverty-stricken and pitiable as Manhattan Island, for which community we in Columbia have the profoundest commiseration. I hope that this Convention will not exceed its appropriation, and I should like to be informed, before I vote on such propositions as the Senator has introduced, what our overhead charges are. May I

inquire of the President if anything has been done in that direction?

The President — The chairman of the Committee on Contingent Expenses is tabulating a statement and the financial clerk has also been instructed to furnish a statement, first, of the expenses of the first month, ending day before yesterday, and next, of the monthly expense under the existing resolutions and orders of the Convention. That statement requires a certain amount of estimating. That is taking quite a little time. There are a number of indeterminate charges: The cost of printing, the cost of postage, of supplies, which can only be estimated, but I presume the statement will be ready by the next session of the Convention.

Mr. Quigg — Well, Mr. President, I object to the consideration of the present motion.

The President — Under the rule the resolution will go to the Committee on Contingent Expenses.

Mr. Schurman — Mr. President, are any remarks on that motion of Senator Saxe's still in order?

The President — Any remarks are in order if no one objects.

Mr. Schurman — I should like to make one or two observations if I may be permitted to do so. This Constitutional Convention is, as Mr. Quigg has stated, going to cost some money to the State of New York. So far as I know the sentiment of the State, the people are ready to spend money for legitimate purposes. This Convention cannot do its work intelligently or effectively unless it is supplied with such material as Senator Saxe has asked for for his Committee, and I should think it penny-wise and pound-foolish to spend hundreds of thousands of the State's money for holding this Convention, and crippling us in our work by refusing to make petty appropriations to supply us with information in order that we may discharge intelligently our duties to the State for which we have been called together.

Mr. Unger — Mr. President, as a Democratic member of the Committee on Taxation, and coming from that district which Mr. Quigg commiserates, I rise to say that it was only after the most careful consideration that we instructed our chairman to bring in this motion. The field of taxation is an entirely new one for the Committee to cover and it was only after giving the matter the most earnest and careful thought that we requested our chairman to make the resolution before you, feeling as we did that it was almost an impossibility for us to cover our work without some such data.

Mr. Wickersham — Mr. President, I should like to ask whether the Committee has considered the publications which the United States government has been making during the last two or three years on laws relating to taxation in the different States. The

Department of Commerce of the United States has published a series of pamphlets, the last one a very short time ago, very comprehensively covering all of the legislation of the States by groups relating to taxation, and it occurs to me that possibly some of the material embraced in the report referred to is already in print in convenient form for use.

Mr. M. Saxe — Mr. President, I would like to say in reply to Mr. Wickersham, that I am quite familiar with the census bulletins issued by the Department of Commerce. They are very valuable, but this particular information with respect to the constitutional provision is classified in such form that it can be more readily used than these bulletins. The particular bulletin, I think, that might be applicable for this work is the one relative to corporation taxes, but there have been a great many changes since that bulletin was issued. We have several of these bulletins in the possession of the Committee now, and there is a compilation that was very carefully done by the Legislative Reference Bureau of the Michigan Constitutional Convention of 1907, and the work is being carried on by a similar bureau at Columbia University. So it will be down to date within a day or two, and it is not alone valuable for the use of the Convention, but it will be valuable for every university and college in the State of New York. They will all be glad to get copies of these documents, and it will be particularly valuable for the Committee on Taxation and the Committee on Finance, because it is very carefully compiled and put in such shape that it is ready for use in the work of these Committees.

Mr. Steinbrink — Mr. President, may I have a brief word to say on this subject? The Committee on Taxation, with an eye to economy, considered whether or not it was possible to have this pamphlet typewritten, to have seventeen copies of it for the use of the Committee. In the first place, it would be a task beyond the stenographer to the Committee on Taxation. In the second place, when the time comes to discuss or debate the taxation problems, the other members of the Convention would not have this before them. It is most valuable, and we estimated at the time that the cost of printing it would be between \$100 and \$120.

Mr. Haffen — Mr. President, as a matter of inquiry: Is a record kept of the presence of members at the meeting of this Convention?

The President — The Chair is unable to reply to the delegate.

Mr. R. B. Smith — Mr. President, I offer the following resolution.

The Secretary — By Mr. R. B. Smith: Resolved, that the Superintendent of Public Buildings be requested to rearrange the

accommodations provided for the telephone operators of the Convention, so as to make them suitable for the conditions which will prevail during the summer session.

The President — What disposition do you want made of it?

Mr. R. B. Smith — Mr. President, I ask for immediate consideration, and I move the adoption of the resolution. It is only one of the matters which properly comes as an address from the Convention to the Superintendent of Public Buildings, and simply means moving these girls out of the little coop, four by six, in which they were smothered, and putting a partition across the hall so they can get a little fresh air.

The President — Unanimous consent is asked for the present consideration of the resolution. Is there any objection? There appearing to be none, the resolution is before the Convention. All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

The President — Propositions for Constitutional Amendments. The Secretary will call the roll by districts.

Mr. Weed — Mr. President, I offer the following.

The Secretary — By Mr. Weed: Proposed Amendment to the Constitution.

Second reading — To amend Article I, Section 2, relating to trial by jury.

The President — Referred to the Committee on Bill of Rights.

Mr. Unger — Mr. President, Mr. Harawitz of the Eleventh district has asked me to introduce this for him.

The Secretary — By Mr. Harawitz: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article III of the Constitution, in relation to compensation and mileage of members of the Legislature.

The President — Committee on Legislative Organization.

Mr. Haffen — Mr. President, I introduce the following by request.

The Secretary — By Mr. Dooling: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in respect to State officers, by providing for the election of a Commissioner of Labor and Industry.

The President — Unless Mr. Haffen has some other suggestion to make, the Chair is inclined to think that this should go to the Committee on Industrial Relations.

Mr. Haffen — I simply introduced the matter by request, Mr. President.

The President — I will make that reference, then, to the Committee on Industrial Relations.

Mr. Low — Mr. President, by request.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Article II of the Constitution, in relation to proportional representation and preferential voting.

The President — Committee on Suffrage.

The Secretary — By Mr. Unger: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 9, in relation to civil service appointments and promotions.

The President — Committee on Civil Service.

The Secretary — By Mr. Rosch: Proposed Amendment to the Constitution.

Second reading — To amend Section 13 of Article VI, providing that the President of the Senate shall not act as a member of the Court for Trial of Impeachment against the Governor or Lieutenant-Governor.

The President — Committee on Judiciary.

The Secretary — By Mr. Quigg: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, by providing that appointments shall be made in the civil service according to merit and fitness, to be ascertained by competitive examination, exempting only appointments to be made by the Governor or by the Governor by and with the advice and consent of the Senate.

The President — Committee on Civil Service.

The Secretary — By Mr. Quigg: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article I of the Constitution, by the addition of a provision forbidding prize fights and the sale of tickets to fights or fighting exhibitions.

Mr. Quigg — Mr. President, I should suppose the Committee on Bill of Rights.

The President — That was the first impression that the Chair had. I was a little doubtful, however, whether it should not go to the Committee on Legislative Powers.

Mr. Quigg — Shouldn't it go to the Committee on Judiciary, either to the Bill of Rights or to the Judiciary, it would seem to me.

The President — I think, while the Proposed Amendment is in the form of an amendment to that part of Article I which contains the Bill of Rights, the amendment itself is no part of the Bill of Rights but contains a prohibition of prize fights.

Mr. Quigg — Does the Chair recollect to what Committee the proposition against gambling was referred in the last Convention? I cannot say, I should suppose it ought to go to the Bill of Rights.

The President — This is, in form, a prohibition upon the Legislature that no law should be passed doing thus and so, including in that prohibition laws permitting prize fights, and my impression is that it should go to the Committee on Legislative Powers. If, on further consideration, that seems to be erroneous, it can be changed. I will refer it now to the Committee on Legislative Powers.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Article II of the State Constitution, in relation to the extension of suffrage.

The President — Committee on Suffrage.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 13 of Article VI of the Constitution, in relation to the trial of impeachments.

The President — Committee on Judiciary.

Reports of standing committees.

Reports of select committees.

Third reading of Constitutional Amendments.

Unfinished business and general orders.

Special orders.

General orders.

Mr. Tanner — Mr. President, I rise for information from the Committee on Printing. I find that the Record or the Journal is not upon the desks, and I would like to know what the arrangement is as to the time that printing is to be submitted to the members, of the proceedings of the previous day. It seems to me that this is of comparatively little value to us unless we have opportunity to look it over before the session begins.

Mr. Berri — Mr. President, my Record is here.

Mr. Wickersham — I wonder if the difficulty is not individual to the member.

Mr. Berri — I think it a matter of filing them in the books, perhaps yours has escaped. I have my copy here on my desk. The arrangement we have with the printer is that 250 copies shall be printed and given to the Clerk the first thing in the morning. Another 250 copies will be printed if any errors or mistakes are discovered, subject to the Clerk's orders. But the 250 copies should be here.

Mr. Tanner — Mr. President, I withdraw my request for information; I find in it an inadvertence, and that the other members have all apparently received their copies.

Mr. Schurman — Mr. President, I rise to a request. The Committee on Education decided to send out certain letters, the details

of which I need not go into, and it is also desired to include in them Article IX, which is the educational article, covering about a page of the Legislative Manual. I ask how I can have some hundred of copies of that page printed.

The President — The ordinary method would be to move that that be printed as a document. Another form would be to ask authority for the printing as a Committee print.

Mr. Schurman — Perhaps a more economical proceeding would be to have the stenographer run off 200 copies. I think I will adopt that course.

Mr. Cullinan — Mr. President, I rise for a question of information.

Has the Committee on Library and Documents made any arrangement with reference to obtaining books at the State Library for the use of the Convention in this building: Ordinarily, when the Library was in this building, there was not much difficulty, but whether they will permit those books to be taken across the street into this building is another matter, and I would like to know whether the Committee has taken any action in this matter?

Mr. Wickersham — Mr. President, in the absence of the chairman of the Committee, I would say that that subject is being considered now, and the Committee hopes to make an arrangement suitable for the needs of the members.

The President — The Secretary will make announcements.

Mr. Wickersham — I move that we adjourn.

The President — It is moved that the Convention do now adjourn. Those in favor say Aye, contrary No. The Convention stands adjourned until 12 o'clock Tuesday morning.

Whereupon, at 10:40 a. m., the Convention adjourned to meet Tuesday, May 11, 1915, at 12 o'clock noon.

TUESDAY, MAY 11, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. David M. Cleland.

The Rev. Mr. Cleland — We look up to Thee, our Heavenly Father, at this hour for Thy blessing. We have already received it in large measure. We have received a blessing from Thee in being permitted to live in this day and age and at this time. Thou hast blessed us greatly in permitting us to live in this great land, this great western land that has to-day in Thy Providence become the schoolmaster of the world. And now we ask that a rich blessing may come upon these representatives from the different parts of this great Commonwealth as they undertake the business

that lies before them. God's richest blessing rest upon them and upon all their deliberations. And, Lord, to-day in a special manner we would remember our own land and we would remember our President in these trying times. God give him wisdom and direction, and may he be led in a way and in plans that shall promote the honor of our country and the glory of God. Direct us in all the duties of life, and accept our thanks for the privileges of living to-day, and all that we ask is in the name of Our Lord and Master, Amen.

The President—Are there any amendments for the Journal of the last legislative day?

Mr J. L. O'Brian—I ask unanimous consent that the Journal on page 52 be changed with regard to the middle initial of the clerk of the Committee on Industrial Relations; that the letter "W" be stricken out and the letter "M" be inserted, so that it is "Benjamin M. Day" instead of "Benjamin W. Day."

The President—Without objection that correction will be made.

Mr. J. L. O'Brian—And I ask that the same correction be made in the Record.

The President—Same order. Are there any other corrections for the Journal of the last legislative day? Without objection the Journal for that day stands approved.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions will be called for by districts. The Secretary will call the roll by districts.

Mr. M. Saxe—I desire to give notice that I shall move to discharge the Committee on Rules from further consideration of the resolution which I introduced on April 7th, providing for the holding of appropriate exercises on June 15th to commemorate the 700th anniversary of the adoption of the Great Charter. I desire to state, Mr. President, by unanimous consent, that in view of the fact that it is hardly a month away when we will have to hold those exercises if we are going to hold them, if we desire to have some distinguished personages address us on that occasion we at least ought to try to give them a month's notice.

Mr. Dunmore—Mr. President, I offer the following resolution and request that it be referred to the Committee on Library and Information.

The Secretary—By Mr. Dunmore: Resolved, That the Secretary of State be requested to furnish to this Convention the number of electors who voted at any election at which any constitutional amendment or amendments were submitted to the people, and the number of votes cast for and against such amendment or amendments.

The President — Referred to the Committee on Library and Information.

Mr. Kirby — Mr. President, I offer the following resolution.

The Secretary — By Mr. Kirby: Resolved, That the Comptroller be directed to secure and furnish the Convention with a statement showing the compensation received by the various county treasurers of the counties of the State where fees are retained by them in addition to a salary during the period of the last full term of office, the same to show the amount received each year thereof from the collection of transfer taxes, liquor taxes, sales of lands for unpaid taxes and from the receipt and disbursements of money paid into the county treasuries by orders of the various courts.

The President — Committee on Library and Information.

The President — Propositions for Constitutional amendment by districts.

Mr. Steinbrink — Mr. President, at the request of the County Civil Service Associations within the city of New York, I offer the following.

The Secretary — By Mr. Steinbrink: Proposed Amendment to the Constitution.

Second reading — To amend Section 9, Article IV, relating to civil service.

The President — The Committee on Civil Service.

The Secretary — By Mr. Doughty: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VIII of the Constitution, making personally liable stockholders in indemnity, surety and liability corporations.

The President — The Committee on Corporations.

Mr. Marshall — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Marshall: Proposed amendment to the Constitution.

Second reading — To amend Article XIV of the Constitution, by making provision for the vote by which an amendment to the Constitution shall be adopted, whether submitted by the Legislature or by a Constitutional Convention, by requiring the question as to whether a Convention shall be held to be submitted at a general election and amendments to the Constitution to be submitted at a general election, by permitting the validity of an election and the determination of the result of an election to be contested by any elector in an action brought in the Supreme Court, and by making provision with respect to amendments coincidentally submitted by a Convention and the Legislature.

The President — The Committee on Future Amendments.

Mr. Marshall — Mr. President, may I ask you to read the fourth paragraph with a view to determining whether or not that should not be referred to the Committee on Suffrage? I have there proposed a plan whereby the question, which is a much-mooted one, and which is the subject of Mr. Parsons' resolution introduced on the 27th of April, now under consideration by the Committee on Suffrage, may be disposed of without the doubtful expedient of debating resolutions which we may have no power to adopt or to enforce.

The President — The Chair thinks that that clause might very properly be a subject for consideration by the Committee on Suffrage, but the Chair does not see how it can properly be withdrawn from the Committee on Future Amendments.

Mr. Marshall — Mr. President, I do not ask that it be referred to the Committee, but that that particular clause also be referred to the Committee on Suffrage.

The President — That amendment could be made and clause 4 will be also referred to the Committee on Suffrage for its information.

The Secretary — By Mr. Marshall: Proposed Amendment to the Constitution.

Second reading — To amend Article XV of the Constitution, with respect to the time when the Constitution is to go into effect.

The President — The Committee on Future Amendments.

The Secretary — By Mr. M. Saxe: A Proposed Constitutional Amendment.

Second reading — To amend Section 2, Article X, of the Constitution, in relation to appointment and election of officers not provided for by this Constitution.

The President — I suppose, Mr. Saxe, the Committee on County, Town and Village Officers would be the reference?

Mr. Shipman — I offer the following.

The Secretary — By Mr. Shipman: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article VI of the State Constitution, relating to the jurisdiction of the Court of Appeals.

The President — Committee on Judiciary.

Mr. Bernstein — I offer a Proposed Amendment.

The Secretary — By Mr. Bernstein: Proposed Amendment to the Constitution.

Second reading — Providing that justices of the various Appellate Divisions shall be designated by the justices of the Supreme Court elected from each department.

The President — Committee on Judiciary.

Mr. Burkan — Mr. President, I offer the following.

The Secretary — By Mr. Burkan: Proposed Constitutional Amendment.

Second reading — To amend Section 5 of Article VI of the Constitution, relating to the City Court of the city of New York.

The President — Committee on Judiciary.

The Secretary — By Mr. Burkan: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, by adding a new section thereto, prohibiting certain officers from engaging in any business or practicing any profession.

The President — Committee on Governor and Other State Officers, unless Mr. Burkan suggests a different committee.

The Secretary — By Mr. Burkan: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article VI of the Constitution, removing the restrictions prohibiting the Legislature from increasing the salaries of county judges and surrogates.

The President — Committee on Judiciary.

Mr. C. H. Young — Mr. President, I offer the following amendment.

The Secretary — By Mr. C. H. Young: Proposed Amendment to the Constitution.

Second reading — To amend Section 14 of Article VI of the Constitution, relating to the County Court, City Court of the city of New York and the Court of General Sessions in the county of New York.

The President — Committee on Judiciary.

Mr. Clearwater — Mr. President, I offer the following.

The Secretary — By Mr. Clearwater: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XIII of the Constitution, relating to the oath of office, so as to permit the Court of Appeals to prescribe such an oath as it may deem requisite or proper to be taken by attorneys or counselors-at-law upon their admission to practice in the courts of the State.

The President — Committee on Judiciary.

Mr. Dunlap — Mr. President, I offer the following.

The Secretary — By Mr. Dunlap: Proposed Amendment to the Constitution.

The Second reading — To amend Section 7 of Article VII of the Constitution, relating to the Forest Preserve, to matured, dead and fallen timber, roads, trails and camp sites, and to the appointment of commissioners of the forest preserve.

The President — Committee on Conservation.

Mr. Bunce — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Bunce: Proposed Amendment to the Constitution.

Second reading — To amend Section 13 of Article VI of the Constitution, relative to the trial of impeachments, by striking out the word "judicial" from the fourth sentence of said section.

The President — Committee on Judiciary.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article IV of the Constitution, by limiting the power of the Governor to call extraordinary sessions of the Legislature, by increasing the salary of the Governor and giving him certain powers and imposing upon him certain duties as to the budget.

The President — The first part of the Proposed Amendment would properly be referred to the Committee on the Governor and Other State Officers. Does Mr. Smith have any choice in the matter?

Mr. E. N. Smith — Mr. President, I think in the first instance it should go to the Committee on the Governor and Other State Officers.

The President — That reference will be made.

Mr. Stimson — Mr. President, may I suggest that the same disposition be made of the second part as was made with reference to the amendment offered by Mr. Marshall, namely, that that which relates to the budget be referred to the Committee on State Finances which is already considering that subject?

The President — The amendment will also be referred to the Committee on State Finances for its information. The Chair will say that that leaves jurisdiction over the Proposed Amendment to the Committee on the Governor and Other State Officers. The reference to the second Committee is for its information. The possession of the bill is with the Committee on the Governor and Other State Officers.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article IV of the Constitution, as to the power of the Governor to veto appropriation bills.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 21 of Article III of the Constitution, in relation to the appropriation bills, by fixing the date of the fiscal year of the State.

The President — Committee on State Finances.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 8, Article VII of the Constitution, in relation to the sale of abandoned portions of canals and disposition of funds.

The President — Committee on Canals.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 9, Article VI, of the Constitution, in relation to the jurisdiction of the Court of Appeals.

The President — Committee on Judiciary.

Mr. Schurman — Mr. President, I offer the following amendment.

The Secretary — By Mr. Schurman: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding a new section thereto, in relation to Public Service Commissions.

The President — Committee on Public Utilities.

The Secretary — By Mr. Mandeville: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the restriction of legislative powers.

The President — Committee on Public Utilities.

The Secretary — By Mr. Leggett: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, relating to justices of the peace.

The President — Committee on Judiciary.

Mr. Tuck — Mr. President, I offer the following:

The Secretary — By Mr. Tuck: Proposed Amendment to the Constitution.

Second reading — To amend Section 12 of Article VI of the Constitution, so as to provide for the holding of Special and Trial Terms of the Supreme Court by judges of the Court of Appeals and justices of the Supreme Court, retired for age.

The President — Committee on Judiciary.

Mr. Lincoln — Mr. President, I offer the following.

The Secretary — By Mr. Lincoln: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article II of the Constitution, relative to the enactment of election and primary laws.

The President — Committee on Suffrage.

The President — Reports of standing committees.

Mr. J. L. O'Brian — Mr. President, the Committee on Rules makes the following supplemental report and I move the adoption of the resolution therein embodied.

The Secretary — The Committee on Rules as a supplemental report recommends the adoption of the following: Resolved, That the following named persons be employed by this Convention as clerks and stenographers for Vice-President Schurman and the respective committees hereinafter named at the per diem compensation set opposite their names, viz.:

Vice-President Schurman — Secretary, Geo. C. Bogert, \$10.

The Committee on Judiciary — Stenographer, C. W. Barry, \$5.

The Committee on Printing and the Committee on Indians — Clerk, James Allen, \$7; stenographer, Mildred Hand, \$5.

The Committee on State Finances — Clerk, Paul S. Andrews, \$10.

The President — The question is on the adoption of the resolution. All in favor of the resolution, say Aye. All opposed No. The resolution is agreed to.

Any further reports of standing committees?

Mr. Parsons — Mr. President, on behalf of the Committee on Rules, I offer the following report from that Committee.

The Secretary — By Mr. Parsons: Resolved, That Rule No. 72 be amended to read as follows: The assistant sergeant-at-arms and doorkeepers shall be under the supervision of the sergeant-at-arms, who shall require their attendance and the performance of their duties. The Committee clerks and stenographers shall be under the supervision of the chairman of the several committees to which they are respectively assigned, who shall require their attendance and the performance of their duties. The general stenographers and all assistants to the stenographer shall be under the supervision of the stenographer of the Convention, who shall require their attendance and the performance of their duties. With the exception of the Secretary and assistant secretaries, the President's clerk and stenographer, the Secretary's stenographer and the secretaries to the Vice-Presidents, all other officers, assistants and employees of the Convention receiving compensation shall be under the supervision of an assistant secretary who shall be designated by the Secretary for that purpose and who shall require the attendance and performance of duty by such officers, assistants and employees.

To enable the President and Secretary of the Convention to sign the necessary vouchers for payment pursuant to Chapter 76 of the Laws of 1915, the several supervising authorities hereinbefore mentioned shall severally certify from time to time to the President and Secretary as to the attendance and performance of duty by the officers, assistants and employees respectively under their supervision.

Mr. Parsons — I move its adoption, Mr. President. It is a report from the Committee on Rules. Old Rule No. 72 referred to the employees as though appointed by the President and Secretary, but under the present Constitution, all appointments are by the Convention. So that the old rule is not pertinent. This rule is designed to give various people supervision over the employees and then to require them to certify that the employees have performed their duties and upon their certification, the President and Secretary will certify to the pay of the employees.

Mr. Wickersham — Mr. President, for information, does the proposed rule take the place of Rule 72?

Mr. Parsons — It takes the place of Rule 72.

Mr. Wickersham — Then the motion is that the rule be adopted in lieu of Rule 72 which it takes the place of?

Mr. Parsons — Yes.

The President — You have heard the resolution. All in favor, say Aye, contrary No. The resolution is agreed to.

Mr. Brackett — Mr. President, I would like to inquire of the Committee on Drink, or on Contingent Expenses, as to what they have done. I have no wish to bring up the matter before the regular report, but I am anxious to know if they have anything to report on the subject of Saratoga water.

Mr. S. K. Phillips — Mr. President, I desire to say that the Committee on Contingent Expenses intends to dispose of that matter at 4 o'clock this afternoon.

The President — Any reports of select committees?

Third reading of Constitutional Amendments.

Unfinished business and general orders.

Special orders.

General orders.

Mr. J. L. O'Brian — Mr. President, if the calendar is beyond general orders, I move to take from the table for consideration by this House, proposed rule No. 73, which was laid upon the table at my request on the 23d of April.

The President — All in favor of taking the resolution from the table please say Aye, contrary No. It is agreed to.

Mr. J. L. O'Brian — Mr. President, for the information of the House, I desire to ask from the Chair an expression of opinion

as to the power of committees of this House to originate and report Proposed Constitutional Amendments.

The President — Perhaps the resolution had better be reported and read by the Secretary to the Convention first.

Mr. J. L. O'Brian — I meant just this. A great many members have asked the question as to what powers the committees have. They have asked the question, what power has a committee in itself to originate a proposed Amendment to the Constitution? My understanding of it is that a committee has the power to report an amendment of its own, so to speak, in lieu of any other amendment, and that committee on making its report has its report go into the Committee of the Whole precisely as any other amendment would go. I ask if my interpretation is that of the President?

Mr. Quigg — Mr. President, I suggest that it is hardly fair to ask the Chair to meet a question of that kind unless, of course, the Chair wishes to discourse on it. Of course, I suppose if the concrete question arises, the Chair is bound to rule, or if the Chair will tell us something that is in the rules or may not be, but I do not see anything in the rules by which the gentleman from Buffalo can bring in a rule which will let a committee make a report; as I read the rules, there is nothing there that enables the Rules Committee to originate an amendment. No doubt it may express its opinion or change the language or report against it, but the question is, has it the right to introduce here as a committee a proposition? I don't see anything in the rules that gives to any committee that power, and I don't think the Chair ought to be called on to add a rule.

Mr. Westwood — Perhaps Mr. Quigg's attention has not been called to Rule 30, which distinctly provides that no proposition for Constitutional Amendment shall be introduced in the Convention, except, first, it is under the proper order of business, and, second, by report of the Committee, which would seem to fully cover the situation.

Mr. J. L. O'Brian — Mr. President, I did not mean to stir up all this parliamentary discussion. My question referred to something a little different, and I asked the question of the Chair simply because it seemed to me a question which might readily be answered. It is a question which many members have asked, whether a committee may, of its own motion, as it does in our Legislature, introduce a resolution, so to speak, of its own, which is different from any resolution before it. My understanding is that a committee may introduce such a resolution of its own as a

substitute for any resolution before it. I was simply endeavoring to make that point here. I mean amendment, when I say resolution. To avoid further embarrassment all around, I will withdraw my request for information, and I desire, Mr. President, to offer the following resolution from the Committee on Rules.

The Secretary — By Mr. J. L. O'Brian: Resolved, That the proposed Rule 73 be amended by striking out in the first line thereof the words "On the 1st day of June," and in lieu thereof, inserting the words "After the 11th day of June," and also by striking out the words thereafter in the second line of said rule so that the proposed rule shall read as follows: Rule 73. After the 11th day of June, 1915, the call for Proposed Constitutional Amendments by districts, under Rule 3, shall be discontinued and no Proposed Constitutional Amendments shall be introduced except on the report or recommendation of a standing or select committee, and that, as so amended, said rule be adopted.

The President — The Committee has a right to amend a proposal, and the resolution before the Convention is amended.

Mr. J. L. O'Brian — Mr. President, one month has now elapsed since this House convened. Under this resolution, as now amended, which is before us for consideration, we and the public generally have a full month's notice that on Friday, the 11th day of June, it is the intent of this House to discontinue the call by districts for the introduction of Proposed Constitutional Amendments. After that date amendments may be introduced either by unanimous consent, or on the report of a committee or by means of suspending this rule by a majority vote of the House. I desire to emphasize the fact that the control of the work of this House is always in the hands of a majority of its members, and that applies to the suspension of rules precisely as it applies to any other measure before the House; there being a distinction between the functions of the Rules Committee of this House and functions commonly held by the Rules Committee, for example, in the Assembly of the State Legislature. I think, in justice to the public, as well as to the members of this House, a date should be fixed for the discontinuance of the general call. As it is, all you who have attended committees are aware there is very little business at present before any committee of this House, and until some day is fixed when this call will be discontinued, there will be a general tendency on the part of the public, and by the public I mean not only private citizens, but public officials throughout the State, to delay the presentation of their views. There is another reason which seems to me quite potent, and that relates to the holding of hearings on matters before this House. In the Legislature and in Congress, a bill is introduced affecting a

specific subject such as a proposed amendment of the charter of the city of New York. A hearing is held by a committee on notice. If there is great interest in the subject, two hearings are held. The committee is then prepared to finally dispose of the subject in executive session; but with the work of this House, we are dealing not so much with specific propositions affecting with particularity the general statutes, but we are dealing with broad, fundamental questions of public policy, and until the various committees of this House have before them the bulk of the suggestions which are to be made to them, they cannot with great profit hold public hearings and make up their minds as to their final attitude on such questions. All of these considerations, Mr. President, make for the same result, namely, that the public should have notice and we should have notice of a date after which this call will be discontinued, so that we may have at as early a date as possible the matters before us for our consideration, and I remind you in asking the adoption of this proposed rule, that this House, by a majority vote at any time before the 11th of June, may again postpone the time when this rule shall take effect, or, after the rule has taken effect, the House may, by majority vote, suspend its operation in a particular instance.

Mr. Curran — Mr. President, may I ask for a point of information? As I understand that rule, the time limit for the introduction of resolutions will be June 11th, but it gives the committees power to propose amendments — do I understand it aright — without unanimous consent.

The President — The Chair will endeavor to state the situation as to committee powers in which this proposed resolution would result. Committees now have and would continue to have the power to report to the Convention any Proposed Constitutional Amendment they deem advisable relating to a subject which has been referred to the committee. If an amendment proposing to change the system of judiciary is referred to a committee, or an amendment proposing to change the arrangement and nature of the State offices is referred to a committee, that committee may report back that amendment with any modifications, or it can report back a substitute entirely different from the terms of the original amendment referred to it, so that jurisdiction over the subject gives the committee the power to report any amendment on that subject to the Convention that it sees fit to. This resolution would give to the committees of the Convention full power. It would transfer to the committees, after the 11th of June, the power that now rests in individuals to present to the Convention and require to be referred to the appropriate committees for consideration and report Proposed Amendments to the Constitution. After the 11th of June, these committees would have two

powers: One to report to the Convention the result of their deliberations upon any subject over which they have jurisdiction by reference, in the form of a Proposed Amendment to the Constitution, which would go in general orders, be considered in Committee of the Whole, and, if the Convention so chose, be ordered to third reading, and adopted. The other would be the power to recommend to the Convention the introduction of a Proposed Amendment which would be referred for the consideration of the proper committee just as before the 11th of June a Proposed Amendment by an individual would be referred.

Mr. Curran — Mr. President, that is perfectly satisfactory. That is the information I desired.

Mr. Brackett — If the statement of the Chair, the President of this Convention, is to be taken as another expression of the power of the committee, I beg leave to file my dissent. This proposed resolution does not and cannot add one jot or tittle to the present power of the committee. There is no committee of this body which now has not the power of its own initiative to introduce any amendment it pleases to this Convention, and it must be so. It must be so not only under the rule as adopted, but must be so under general parliamentary principles, and until and unless there is some limitation in some rule adopted by this body, that a committee cannot make a report of its own initiative, on any subject, it has that power. I, therefore, challenge the proposition that this resolution adds anything to the power of the committee after the 11th of June. If the chairman of the Judiciary Committee on this day introduces a report of that Committee on any subject, so far as the rule now reads, that comes into general orders under the rules of the body, and must be considered here. Therefore, there is no addition to the powers of any committee. Now, this subject is too insignificant to have a debate over, I do think, but I do want to state this: That, under the rule as reported, I think the Chairman's interpretation is a little erroneous in this particular, that a committee may report on some subject relating to its department, under the rule as it is, the Committee on Butts and Hinges can report any resolution affecting any part of the Constitution. I am not sure but that it ought to have that right. I feel entirely complacent as to this resolution, although I confess I think it is not a wise thing to adopt. I don't think it is a good thing for any body meeting in parliamentary fashion, to tie its own hands in advance. I have for years disbelieved in the control of the Committee on Rules in the Assembly. This is a little, slight, homeopathic imitation of that. I believe in the power of the Convention remaining in the Convention, where it ought to remain; but I would say this: That if I have any

amendment which, by reason of engagements or failure to think, I cannot introduce before the 11th of June, I will find somewhere some committee that will introduce it for me, I feel pretty sure. Being the chairman of that Committee, I believe I could tease that Committee into introducing it for me, but the men who are not chairmen of committees, or who are not schooled in parliamentary practice, may find some trouble. Therefore, while I believe it would be infinitely better to do nothing about it, I shall not ask for a roll call or anything else about it; I am utterly indifferent as to the matter. One thing said by the chairman of the Committee on Rules I dissent from, that there is very little for them to do, because the amendments have not been speedily introduced to give them something to do. There is not a committee of this body, Mr. President, that has its duties in the slightest degree lessened by the fact that an amendment has not been referred to it. If there are no amendments introduced into this body and referred to Judiciary, it is the business of the Committee on Judiciary to take the substantive part of the present Constitution and draft its motions and make its report upon it just as though the amendments were offered here, and the same duty obtains with respect to every other committee.

The President — The Chair will not enter into an academic discussion now on the power of a committee to report on anything that has not been reported to it. The language of the rule is, quoting Rule 16: "The several committees shall consider and report, without unnecessary delay, upon the respective matters referred to them by the Convention" and that is the limit of the jurisdiction of any committee of this Convention. Every member of a committee is entitled to introduce a Proposed Amendment to the Constitution, and any of the seventeen members of a committee can unite in authorizing one of their number to introduce a Proposed Amendment to the Constitution, but unless a subject has been referred to a committee of the Convention, no report from that committee entitled a Proposed Amendment will be given consideration without having been sent back to the committee, or having been referred to some other committee for its consideration. When any such question arises, that will be the ruling of the Chair, and if the Convention differs from the Chair it will have the opportunity to signify that difference by voting upon a repeal of the ruling.

Mr. Schurman — I think it is important that we should understand clearly what is before us and what we propose to do. As I understand the ruling given by the President, a committee may at any time after June 11th, if this resolution is adopted, bring before the House a report not only on matters that have been referred to it within the field assigned to it, but also a report on

matters originated by the committee itself. Am I correct, Mr. President?

The President — No, not precisely. After June 11th, a committee may authorize the introduction of a Proposed Amendment that would differ from the report of the committee upon the Proposed Amendment.

Mr. Schurman — I understand the ruling then of the President, or so far as I understand it, it is substantially as I stated it, although the language is undoubtedly more parliamentary. The committee can, after June 11th, if this resolution is adopted, get before the Convention not only its views on subjects that have been referred to it, but views or opinions which have originated in the intelligence of the members itself.

The President — Doubtless.

Mr. Schurman — I should also like to understand, Mr. President, if between now and the 11th of June, if this resolution passes, committees would not have similar power. Perhaps it won't be necessary to exercise those powers, but do they not possess them from this date to June 11th?

The President — Not as a committee. Every individual member of the committee possesses that power and all of them put together possess that power, but it would not be a committee action.

Mr. Schurman — Then Mr. President, it seems to me that, with these understandings, we shall not find our liberties in any material way restricted by the passage of this resolution. I confess that I have one practical objection, which, however, affects other members of the Convention and myself, and if they do not attach any importance to it, I shall not. The majority of the members of this Convention are lawyers. That profession, as I understand it, is exceedingly busy until the end of June or the beginning of July, and I think that for their sakes — but, if they don't bethink themselves of their own interests I don't know why I should — that it might be a good thing if a date were put somewhat later than June 11th. They will then have gotten through with their court business and will be able to give their time more undividedly than is possible at the present to the business of the Convention. I throw that out as a suggestion and not as an objection.

Mr. Whipple — Mr. President, I think we are all desirous of getting this clearly in our minds, and I, if I may be permitted, desire to ask the President, how he harmonizes Rule 16, which he quoted in relation to the power of a committee to report a resolution, being Rule 16, with Rule 30. Rule 30 says "No proposition for Constitutional Amendment shall be introduced in

the Convention except in one of the following modes, viz: 1. Under the order of introduction of Propositions for Constitutional Amendments by districts, in numerical order. 2. By report of a committee." To my mind, that "second" means that a committee may report a resolution any time it pleases, under Rule 30, and Rule 16 seems to differ from that. I would like to be made clear upon that.

Mr. Quigg — Mr. President, I object to the catechizing —

The President — The Chair has already ruled upon the subject so far as its being before the committee and will not rule upon it further.

Mr. Curran — May I ask for another point of information? Now, as I understand it, we will say the Committee on Industrial Relations, or whatever committee it may be, may draft a proposed amendment, not in connection with any subject that may be referred to it, but a proposed amendment of their own mind, and it is introduced in the Convention and the Chair refers it to its proper committee, the Committee on Judiciary, or the Bill of Rights. Has that Committee power to report that amendment without unanimous consent?

The President — Undoubtedly.

Mr. Curran — Doesn't that give a power that the individual delegates have not got? I want to find out, Mr. President — I want to have an opportunity, if I feel in my best judgment that I could introduce a resolution — I realize and think that I could get some committee of which I am a member to introduce a proposition, and I might not be able to do so, but I want as much protection as any other delegates may have that wants to introduce that resolution, and it deprives me of that right. I must get unanimous consent. According to the time set for the introduction of resolutions, I cannot introduce a Proposed Amendment after June 11th. Am I correct? I must receive unanimous consent, but the committee in a roundabout way can introduce a Proposed Amendment, report it to this Convention, the Chair refer it to another committee, the other committee report the amendment, and it does not have to have unanimous consent. I want that understood so that I may know where I am at a later day. I think, Mr. President, it is quite a subject-matter to get around another way, and I don't like it. I must have, or any individual delegate that introduces a proposition must have, unanimous consent, after June 11th. How about the committee? None whatever.

Mr. E. N. Smith — I don't think that we are in any great amount of danger in adopting this resolution and I do think the discussion has gone perhaps as far as it should on this minor

matter for the reason, as I understand the terms of the resolution, by a majority vote at any time the rule could be suspended and resolutions or amendments could be introduced. But in connection with the suggested ruling of the President I would like to call the attention of the Convention to Rule 15, which provides that the President "shall appoint the following standing committees to report upon the subjects named, and such others as may be referred to them." I call attention to this in order to do away with the idea that the committees are at all limited in their powers to the consideration of such questions as may be referred to them by the Convention.

Mr. J. G. Saxe — Mr. President, I feel a good deal in the same condition as the delegate from Saratoga, that if I become violently excited in favor of some proposition I can probably find some way to get it before the House after June 11th. I don't agree with him, however, in one respect, and that is I don't feel that I could vote in favor of this resolution, and the reason for it is deeper than any statement that so far has been made upon this floor to-day, and that is that it is a frank attempt to prohibit ideas. Now, look at the situation we are in to-day — 168 delegates in this hall. Any one of us brings a proposition before the House; it is immediately printed, we look it over, we talk it over with our fellow-delegates so that, wholly outside of the committee, there is a general discussion all the time among delegates upon printed ideas before the whole body of 168 delegates. The suggestion is now made that on June 11th this must stop; that from June 11th to July 11th, from July 11th to August 11th and possibly from August 11th to September 11th, there will be nothing whatever before this body except that which the committees in their divine wisdom may see fit to lay before us. It seems to me that that is wrong. Why, what is going to happen? I do not believe that any one thinks that the propositions which are introduced between now and June 11th are, any of them, going to be the final propositions adopted and reported by the committees. Probably every proposition which goes in before June 11th will be amended in some respect before it is reported before the Convention, so that all the propositions will be academic by July 11th and most of them archaic by August 11th. I think that each delegate should have the inalienable right in this body to introduce his ideas in printed form right up to the last day, the day of adjournment, and I think that any resolution which attempts to limit that is unwise and reactionary.

Mr. Latson — Mr. President, I very earnestly dissent from the views that have just been expressed by the delegate from New York. It has seemed to me that the chairman of the Committee

on Rules in moving the adoption of this amended rule has given to us very ample and cogent reasons for its adoption, and those reasons appeal to me very strongly. The work of this Convention naturally, as has been pointed out, divides itself. We are now engaged in gathering together the various suggestions that may be made from various sources as to Proposed Amendments. The second branch of the work cannot, with any degree of wisdom, or indeed with any hope of immediate progress, be taken up until, as the gentleman has said, that material is before the Convention and before the committees, that the various suggestions may be appropriately classified and that the overlapping of one with another may be ascertained and the work of the committee come to a finality and an appropriate report be made to this Convention with reference to those several amendments. We then naturally pass into the third stage of our work, the consideration of those reports. It seems to me of vital importance that we should lay out our work in such a way that the time will not be dissipated in attending to the first branch, to the exclusion of the second and the hasty consideration of the third. I am heartily in favor of limiting the time within which these amendments shall come to the Convention in the usual and normal course, it appearing so very clearly by what has been said by the Chair and from the floor that by adopting this rule we are only limiting the receipt of Proposed Amendments through the individual members of the Convention, leaving open the other sources through which similar suggestions may later reach us. And it seems quite appropriate that after the expiration of this very reasonable time no further amendments should come to us unless they have the sanction of more than the individual delegate, namely, the majority of some one of our standing committees, or finally that they have the sanction of a majority of this Convention. I very heartily second the motion that has been made by the chairman of the Committee on Rules.

Mr. J. L. O'Brian — Mr. President, this matter appears to have been pretty fully discussed and I, therefore, move the previous question on my resolution and ask that it be put.

The President — The question before the House is, Shall the main question be now put? All in favor will say Aye, contrary No. The motion is agreed to. The main question is, Shall the resolution which has been reported by the Secretary in amended form be adopted. All in favor of the resolution will say Aye, contrary No.

Mr. Brackett — Mr. President, I ask for a roll call. I ask, not that I care for a roll call, but for the purpose of a personal explanation on roll call. If I have consent to make that explanation now I am entirely willing to proceed without the roll call.

The President — Unless there is objection, the delegate from Saratoga will have that opportunity.

Mr. Brackett — Mr. President, I am in entire accord with the delegate from New York, Mr. J. G. Saxe, but the ruling of the Chair has so swallowed up in importance the consideration of the resolution that I want to enter my protest with respect to the suggested ruling of the Chair. There is no way I think that it can now be brought up but I do hope that during the time of the Convention, some time, the question will so arise that a ruling may be taken and, if necessary, an appeal from the decision of the Chair, because I hold there can be no possible question that a committee, whether or not anything has been referred to it during the session, introduced here on the floor, has a right to consider the whole scope of the question, to which that committee relates, that part of the Constitution to which it relates, and, primarily without a single word ever having been offered here before, to make its report and to have it considered and to that I must stand to the extent that if there is an adverse ruling to that, I shall be called upon to see that it is reviewed and to take the temper of the Convention with respect to it.

The President — The Chair understands that the demand for a roll call has been withdrawn.

Mr. Brackett — I withdraw the request.

The President — The Chair will put the question again. All in favor of the resolution will say Aye, contrary No. The Ayes appear to have it, the Ayes have it and the resolution is agreed to.

Any further business to come before the Convention?

Mr. A. E. Smith — I ask that the Journal of the Convention show that Mr. H. Leroy Austin of Albany is excused from attendance at the Convention for to-day and to-morrow.

The President — All in favor of that resolution will say Aye, contrary No. It is agreed to.

Mr. Pelletreau — Mr. President, I ask unanimous consent that Mr. William M. McKinney, a delegate from Suffolk county, be excused from attendance to-day and to-morrow, owing to serious illness in his family.

The President — All in favor of excusing Mr. McKinney will say Aye, contrary No. The motion is agreed to.

The Secretary will read committee notices.

Mr. Wickersham — Mr. President, if there is no further business I move that we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor will say Aye, contrary No. The Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 1:15 p. m., the Convention adjourned to meet at 10 a. m., Wednesday, May 12th.

WEDNESDAY, MAY 12, 1915

The President — The Convention will please be in order.

Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Almighty God, who has made of one blood all nations of men and has appointed the bounds of their habitations in this hour of crisis which has come upon the world, we humbly beseech Thy grace and guidance in behalf of those who shape the policies and determine the actions of the peoples of the earth. We ask that in Thine infinite mercy Thou wilt move upon the spirits of men to abate all sinful pride, to assuage all unholy malice, to dispose all minds to moderation, and to cleanse all hearts of those evil desires and unworthy ambitions whence come wars and fightings amongst us. Most fervently do we implore that the consolations of Thy grace may be ministered unto those who are passing through an experience or irreparable loss and unspeakable grief because of the deplorable disasters of this great conflict. And in this time of our own nation's perplexity, we sincerely look to Thee for guidance and help. Grant that this republic whose people are bound by so many peculiar ties to all the peoples now at strife may be always instrumental in Thy hands for justice and righteousness and brotherhood and peace. Keep our hearts from all vengeful wrath and our lips from foolish speaking. Endue Thy servant, the President of the republic, with the spirit of wisdom and understanding for the righteous fulfillment of the difficult duties devolving upon him. Grant that whatsoever is devised and done may not be conceived or carried out in hatred or in the love of strife, but in a desire for justice and with a firm purpose to uphold the immutable rights of humanity and to defend the innocent and to help the weak. And whatsoever burdens Thou shalt see wise to lay upon us as a nation, may we bear them with calmness and courage, fearing no man upon the earth, but seeking only truth and righteousness and peace. Grant Thy guidance unto Thy servants as they take up the tasks of this day, and may their labors redound to the good of all men and the glory of God. For Thy Name's sake, Amen.

The President — Are there any amendments to the Journal? The first order of business is amendments to the Journal as printed and distributed. Are there any suggested amendments? Memorials, petitions, communications from the Governor and other State officers.

Notices, motions and resolutions.

The Clerk will call the roll of districts.

Mr. Buxbaum — Mr. President, I offer this resolution and ask unanimous consent for its adoption and a suspension of the rule.

The Secretary — By Mr. Buxbaum: Resolved, That His Excellency, the Governor, be invited by the President of this Convention to visit and address the delegates at a future date to be fixed by the Governor.

Mr. Buxbaum — Mr. President, I ask unanimous consent for suspension of the rule for the reason that to-night's reception will afford an excellent opportunity for the President of the Convention to extend the invitation to the Governor.

Mr. J. L. O'Brian — Mr. President, I think it is a very courteous thing to do, but I think it would be better to let the resolution lay over until to-morrow, until the Rules Committee can consider it, and decide as to how it may be voted for or some other arrangements made by the Rules Committee. I, therefore, object at this time, without any desire to stifle the resolution.

The President — The resolution will lie over until to-morrow.

Mr. J. G. Saxe — Mr. President, I move to discharge the Committee on Suffrage from further consideration of my proposition, No. 4, and ask that it be amended as indicated, reprinted and re-committed to the Committee on Suffrage.

The President — To what Committee?

Mr. J. G. Saxe — The Committee on Suffrage. It is merely an amendment to my proposition which is now in the Committee on Suffrage.

The President — Is there any objection to the motion? Is there objection to the present consideration of the motion? The Chair hears none. All in favor of the motion say Aye, contrary No. The motion is agreed to.

Mr. Quigg — Mr. President, I offer the following resolution and ask permission to state its purpose. I don't want to bring it on for immediate consideration, I just want permission to say a word about its purpose.

The Secretary — By Mr. Quigg: Resolved, That the President shall appoint a select committee on the submission of any proposed Constitution, or Constitutional Amendment, which shall have been adopted by this Convention, to consist of seven members, which committee in accordance with Section 2 of Article XIV of the existing Constitution shall report to this Convention on or before June 11, 1915, the time and the manner by which any proposed Constitution, or Constitutional Amendment, adopted by this Convention, shall be submitted to the vote of the electors of this State; and,

Resolved, That the report of said committee as so made, or as hereinafter duly authorized to be made, shall, when duly

made, be straightway committed to the Committee of the Whole with precedence.

Mr. Quigg — Mr. President, the laws under which we vote since the submission of our existing Constitution have, as we all know, been very seriously changed. Section 2 of Article XIV provides that any Constitution or Constitutional Amendment which shall have been adopted shall be submitted to vote. I suppose that means — and it certainly ought to mean — that a voter may have the opportunity to vote on any amendment without having his vote result in or tend to result in the destruction of the whole proposition, in the defeat of the Constitution as a whole. Now, in view of the long ballot on which we are required to vote — not so long perhaps as it would be in a presidential or gubernatorial election, but still a very long ballot, it seems to me that the method by which — or, as the Constitution says, the manner to be provided by us ought to be stated to the people just about the time when we are resolving not to hear more amendments and ought to be so well advertised that when the people come to vote on the Constitution, they can have had an opportunity to understand how they are to vote. Now we are much distracted, our people are, at this time, by all sorts of things, wars in Europe and Syracuse and elsewhere, and the thought of the people is not on this Convention, or on its work, and unless the manner by which they shall vote on these propositions is placed before them early and is continued to be placed before them until voting time comes, I fear that we shall not have a large or careful vote upon the propositions to be submitted. Now, Sir, it is possible that the Committee on Rules will think that the Committee on Engrossment and Revision could do this as well as a select committee. That is, no doubt, for the Committee on Rules to suggest, if they think so. At about this time, that is, the time when the manner of voting ought to be placed before the people, the Committee on Revision will be very much occupied, so I make this suggestion of a select committee. That is the object for which I have offered the resolution.

The President — What disposition do you wish made of the resolution now? To lie over or be referred?

Mr. Quigg — I suggest that it may go to the Committee on Rules.

The President — Well, that reference will be made.

The Secretary — By Mr. Cullinan: Resolved, That the State Board of Charities forward to this Convention a statement of the number of inmates of the several institutions over which they exercise superintendence or control, who, at or before the time of their admission to said several institutions, practice the habit of smoking cigarettes.

The President — The Committee on Library and Information.

Mr. Cullinan — Mr. President, I would like unanimous consent to make a few remarks in regard to that resolution, and the two other companion resolutions, when they are read.

Mr. Cullinan — Mr. President and Gentlemen of the Convention: The constitutionality of the Liquor Tax Law of this State was confirmed by the Court of Appeals upon the ground not only of the police power, but that because of the fact that the State of New York had a right to be indemnified for the expenses incurred in caring for the criminal population of this State, 75 per cent. of which was induced by the abuse of the use of liquor. There are in the State hospitals, in the penitentiaries and reformatories and in the charitable institutions, a large number, much larger than you gentlemen imagine, who are there by reason of the fact that they have been abusing the use of cigarettes. Therefore, the State of New York has a right to be indemnified for the expense it incurs in caring for the inmates of those several institutions, by reason of this practice. I have been induced, therefore, to have that information before this Convention with regard to charitable institutions and also by reason of the two companion resolutions requesting the Superintendent of Prisons to furnish us the information of those who are there by reason of the improper use of cigarettes, and also from the State hospitals the names of those who are placed there by direction of the court or otherwise, by reason of this abuse, so that we may intelligently act as to whether or not those who are selling and vending cigarettes in the State of New York should not be taxed exactly as we tax those who sell liquor. I think, Mr. President, if I may be excused, that these resolutions might, with propriety, be referred to the Committee on Finance.

Mr. Wickersham — Mr. President, that resolution goes properly, I think, to the Committee on Library and Information.

Mr. Cullinan — I do not object.

The President — I think that resolution should go to the Committee on Information.

Mr. Cullinan — I have no objection, Mr. President.

The President — We are establishing methods.

Mr. Cullinan — I withdraw my suggestion.

The President — Referred to the Committee on Library and Information.

The Secretary — By Mr. Cullinan: Resolved, That the Superintendent of Prisons forward to this Convention a statement of the number of persons committed to the several prisons, penitentiaries, reform schools or other institutions over which he exercised superintendence or control, who practiced the habit

of smoking cigarettes at or before the time they were committed respectively to said institutions.

The President — Same reference.

The Secretary — By Mr. Cullinan: Resolved, That the State Hospital Commission forward to this Convention a statement of the number of patients in, or persons admitted to, the various State hospitals or other institutions of which they have charge, or over which they exercise superintendence or control, who have been admitted to or directed to be placed in said several institutions, by reason of a condition induced or occasioned in whole or in part by the use of cigarettes. The numbers of such persons in said several institutions should be specified by each institution separately.

The President — The same reference.

The President — Proposed propositions for amendment of the Constitution by districts.

Mr. Pelletreau — Mr. President, I offer the following amendments.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — Amend Section 2, Article III, of the Constitution, in relation to the term of office of the members of the Legislature.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — Amend Section 6, Article X, of the Constitution, in relation to biennial sessions of the Legislature.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — Amend Section 13, Article III, of the Constitution, in relation to the origin of bills in the Legislature.

The President — Committee on State Finances.

Mr. Brenner — Mr. President, by request I offer the following.

The Secretary — By Mr. Brenner: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to appointing judges of condemnation in condemnation proceedings.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Baldwin: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution,

in relation to the Court of General Sessions of the county of New York.

The President — Committee on Judiciary.

Mr. Bell — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Bell: Proposed Constitutional Amendment.

Second reading — To amend Article II, Section 1, of the New York State Constitution, in relation to the qualification of voters.

The President — Committee on Suffrage.

Mr. Bernstein — Mr. President, I offer the following.

The Secretary — By Mr. Bernstein: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, by providing for the appointment by the Governor of State officers.

The President — Committee on the Governor and Other State Officers.

Mr. Slevin — Mr. President, I offer the following.

The Secretary — By Mr. Slevin: Proposed Constitutional Amendment.

Second reading — To amend Section 3 of Article I of the Constitution, in relation to the rights of jurors.

The President — Committee on Bill of Rights.

Mr. Haffen — Mr. President, I offer the following.

The Secretary — By Mr. Haffen: Proposed Constitutional Amendment.

Second reading — Apportionment of Assemblymen and the creation of Assembly districts.

The President — Committee on Legislative Organization.

Mr. Bunce — Mr. President, I propose the following amendment by request.

The Secretary — By Mr. Bunce: Proposed Constitutional Amendment.

Second reading — To amend Section 17 of Article VI of the Constitution, relating to justices of the peace, by limiting the number of them to be elected to that office.

The President — Committee on Judiciary.

Mr. Cullinan — Mr. President, I offer the following.

The Secretary — By Mr. Cullinan: Proposed Constitutional Amendment.

Second reading — To amend Article VII, by adding a new section to be known as Section 13, in relation to granting pensions payable out of the funds of the State.

The President — Committee on State Finances.

Mr. Dunmore — Mr. President, I offer the following.

The Secretary — By Mr. Dunmore: Proposed Constitutional Amendment.

Second reading — To amend Section 4, Article I of the State Constitution, in relation to the writ of habeas corpus.

The President — Committee on Bill of Rights.

The Secretary — By Mr. L. M. Martin: Proposed Constitutional Amendment.

Second reading — To amend Article X, Sections 1 and 2 of the Constitution, in relation to counties and towns, their organization, government and officers.

The President — Committee on County, Town and Village Government, unless some one has some other suggestion as to reference.

The Secretary — By Mr. L. M. Martin: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article V of the Constitution, in relation to State officers, their manner of election, their manner of selection and term of office.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. L. M. Martin: Proposed Constitutional Amendment.

Second reading — To amend Article VIII of the Constitution, in relation to the formation of business corporations, their powers and duties.

The President — Committee on Corporations.

The Secretary — By Mr. L. M. Martin: Proposed Constitutional Amendment.

Second reading — To amend Article VIII of the Constitution, in relation to the forming of labor unions.

The President — The Committee on Industrial Interests and Relations.

Mr. Deyo — Mr. President, I offer the following.

The Secretary — By Mr. Deyo: Proposed Constitutional Amendment.

Second reading — To amend Section 4 of Article IV of the Constitution, in relation to the salary and powers of the Governor.

The President — Committee on the Governor and Other State Officers.

Mr. Rodenbeck — Mr. President, I offer the following.

The Secretary — By Mr. Rodenbeck: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution, by adding a new section conferring authority upon the justices of the Appellate Division to make rules of procedure in court proceedings.

The President — Committee on Judiciary.

The Secretary — By Mr. Rodenbeck: Proposed Constitutional Amendment.

Second reading — To amend Section 15 of Article III of the Constitution, prohibiting the introduction in the Legislature of any bill except by a standing or select committee of the Legislature, until such bill has been approved as to form and expression by the Legislative Counsel.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Rodenbeck: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution, by having a new section conferring authority on the justices of the Appellate Division to designate one of the justices of the Supreme Court a judiciary counsel to prepare rules of court and exercise a general supervision over the administration of justice.

The President — Committee on Judiciary.

The Secretary — By Mr. Lincoln: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, by adding thereto a new section, relating to the creation of boards, commissions, etc.

The President — Committee on the Governor and Other State Officers.

Mr. Saunders — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Saunders: Proposed Constitutional Amendment.

Second reading — To amend Article XII of the Constitution, so as to secure to cities and incorporated villages the right of self-government, and to limit the power of the Legislature to the enactment of general laws for the organization and government thereof.

The President — That should go either to the Committee on Cities or the Committee on County, Town and Village Government. I will make the reference to the Committee on Cities, if that is satisfactory.

Mr. Saunders — That is satisfactory to me.

The President — Are there any reports of standing committees? Reports of select committees?

Mr. J. L. O'Brian — Mr. President, a supplementary report from the Committee on Rules relating to employment.

The Secretary — Committee on Rules, as a supplemental report, recommends the adoption of the following: Resolved, That the following named persons be employed by this Convention as clerks and stenographers for the respective committees hereinafter named at the per diem compensation set opposite their names, namely:

Committee on Prisons and Committee on Contingent Expenses George Kaufman, stenographer, \$5; and that this Convention accept the resignation of George Munson as stenographer to the Committee on Contingent Expenses and Committee on Prisons and that the said George Munson be employed by this Convention as clerk and stenographer to the Committee on Revision and Engrossment at a compensation of \$10 per day.

Mr. J. L. O'Brian — Mr. President, I ask that the report be accepted and the resolution as read be adopted.

The President — Are there any remarks to be made upon the resolution? All in favor will say Aye, contrary No. The resolution is agreed to.

Mr. Rodenbeck — I offer the report of the Committee on Revision and Engrossment.

The Secretary — Report of the Committee on Revision and Engrossment to the Constitutional Convention: The Committee on Revision and Engrossment, to which was referred the resolution adopted by the Convention authorizing and directing the Committee to employ an expert parliamentary draftsman to assist members and committees in the preparation and formulation of resolutions and Proposed Amendments to the Constitution, beg to report that it has selected as such draftsman Benton S. Rude, for many years connected with the bill-drafting department of the Legislature, and ask that his compensation be fixed at the sum of \$15 per day. The Committee offers the following resolution for adoption.

Resolved, That the compensation of Benton S. Rude, parliamentary draftsman employed by the Committee on Revision and Engrossment, be fixed at the sum of \$15 per day.

Respectfully submitted by the Committee on Revision and Engrossment.

Mr. Rodenbeck — Mr. President, I move the adoption of the resolution.

The President — Is there objection to the present consideration of the resolution?

The Chair hears none and the resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Rodenbeck — Mr. President, may I announce that this Committee will occupy the rooms used by the bill-drafting department of the Legislature which is the room adjacent to the Assembly Parlor?

The President — The Chair suggests that the Secretary repeat that announcement, the announcement just made by the chairman of the Committee on Revision. It is so important to the con-

venience of the members that the Chair will ask the Secretary to repeat it in case any member should not have heard it or noticed it.

The Secretary — The Committee on Revision will occupy the room adjacent to the Assembly Parlor.

Mr. Stimson — Mr. President, I ask information with reference to that announcement just made by the Committee on Revision and Engrossment.

The President — The Committee on Revision and Engrossment — the announcement is made I suppose in direct relation to the employment of the bill drafting expert who will be found in the room of the Committee on Revision and Engrossment so that if any member of the Convention wishes the assistance in any way of the bill drafting expert who has now been employed by the Convention it can be obtained by resorting to that room.

Mr. L. M. Martin — Mr. President, I ask for information, if it is necessary for the members of the Convention to employ a bill drafting department if we do not choose to do it. That is, are we obliged to submit our Proposed Amendments to the jurisdiction of the bill-drafting expert if we do not care to take that course?

Mr. Rodenbeck — Mr. President, I do not understand that the adoption of this resolution interferes in any way with the rights of the members with respect to the preparation of their Proposed Amendments. The idea is that if a member desires to have a bill prepared by the parliamentary draftsman he is at liberty to consult him and also if any member has a bill he would like to talk over with the Committee on Revision and Engrossment or the parliamentary draftsman he is at liberty to avail himself of the services of this gentleman, but it does not in any way interfere with any of the rights of the members of the Convention.

Mr. L. M. Martin — His department will be so congested, the drafting department will become so congested, the members will have difficulty in having the bills passed if they cannot have them prepared without submitting them to that department.

Mr. Rodenbeck — There is no restriction on any member of the Convention by the action taken by the Convention with respect to the employment of the parliamentary draftsman.

I may say that in order to secure uniformity of style in Proposed Amendments it may be desirable for the members to consult with this draftsman even in cases where they have prepared the Proposed Amendments themselves.

Mr. S. K. Phillips — Mr. President, the Committee on Contingent Expenses desires to withdraw its resolution with reference to the expenses of the stenographer. I therefor ask that the resolution be recommitted to that Committee.

The President — Without objection the resolution submitted by the chairman on Contingent Expenses will be recommitted to that Committee.

Are there any further reports of standing or select committees?

Third reading of Proposed Constitutional Amendments.

Special orders.

General orders.

Is there any further business before the Convention?

Mr. J. L. O'Brian — Mr. President, I ask that by unanimous consent I be excused from all attendance at the sessions to-morrow and next day because of important court engagements.

The President — Is there objection? I hear none and the member is excused.

Mr. Olcott — Mr. President, I move that we adjourn.

The President — All in favor say Aye, contrary No. The Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:50 a. m., the Convention adjourned to meet at 10 a. m., Thursday, May 13th.

THURSDAY, MAY 13, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Mr. Chidwick.

The Rev. Mr. Chidwick — Almighty and Eternal God, Creator of Heaven and Earth, Lord and Master of all things, humbly and lovingly we adore Thee, and give Thee this day the homage of our minds and hearts, our souls and bodies. Instil Thy light into our minds and Thy love into our hearts, and make us believe that there is no evil in life like the evil that displeases Thee. Take from our hearts all pride and corruption; humble our minds in faith; stir our souls with the fire of Thy love, and grant that as this day is begun from Thee, it may be blessed by work consecrated to Thee and in Thee it may happily end. Bless, we beseech Thee, our homes and our families; shield them with Thy right arm; keep them from all danger and sorrow; preserve them in peace and happiness. We pray for our beloved country which Thou hast given unto us, and made us the most favored people in all history — a country most bountiful and blessed; a country which preserves in us the spirit of manhood which Thou hast consecrated with Thy own precious blood. We pray for our President in this hour of trial and perplexity. We pray that our people may follow his guidance, hopefully, obediently, trustingly and patriotically; that they will recognize in him a figure that Providence has given us to be a great leader in time of trial and of perplexity. We pray for every State in our Union, for the Governors and legislators, that every day we might feel the blessedness of the Union with which Thou hast favored us. We pray

for this Convention that Thy counsels, Thy wisdom, Thy love, may come here and enlighten us with justice and with truth; that the brotherhood of man for which our country stands may be further advanced by the wisdom which shall go forth from this Convention in the laws which they will suggest. May God bless us all individually, and bless us as one great family. May peace and concord reign amongst us. May ill-will and hatred and prejudice and all things that separate man from man and disunite elements in our country be taken away from our hearts, and a great spirit of love take their place, that we might be Thy children, and Thou mayst be our Father.

The President—Are there any amendments proposed to the Journal of Tuesday, the 11th, as printed and distributed? If there are no amendments the Journal stands approved.

Presentation of memorials.

Communications from Governor and State officers.

Notices, motions and resolutions; the Secretary will call the districts.

Mr. Coles — Mr. President, I offer the following resolution.

The Secretary — By Mr. Coles: Resolved, That the Committee on Printing ascertain the number of copies now on hand of the proceedings of the Convention, Journal, calendar, documents and Proposed Constitutional Amendments and report to the Convention the number of additional copies needed to supply the demand during the entire session of the Convention.

The President — Does Mr. Coles ask for immediate consideration?

Mr. Coles — I suppose it would take the regular course and be referred to the Committee on Printing and possibly to the Committee on Contingent Expenses. Under Rule 52 it is so required.

The President — The resolution will be referred to the Committee on Printing.

Mr. C. A. Webber — Mr. President, with the approval of the Committee on Taxation, I offer the following resolution.

The Secretary — By Mr. C. A. Webber: Resolved, That the State Comptroller be requested to furnish the following information from reports in transfer tax proceedings filed in his office:

1. The following details in relation to each of the twenty-five parcels of real estate in each county of the State appraised for the transfer tax:

- a. The name of the deceased;
- b. The name of city or town in which the parcel is located;
- c. The assessed valuation as reported;
- d. The appraised value as fixed.

2. The foregoing information to be arranged by counties according to the location of the parcels and to be in tabular form.

The President — Committee on Library and Information.

Mr. Buxbaum — Mr. President, I offer the following resolution.

The Secretary — By Mr. Buxbaum: Whereas, Several of the standing committees hold their meetings on the same day of the week and at about the same time, and delegates are unable to attend more than one committee meeting at the same time, and

Whereas, Many of the delegates are interested in the proceedings of committees other than those to which they have been assigned and desire to be informed in regard to the work and progress of such other committees, now, therefore, be it

Resolved, That typewritten copies of the minutes of the several standing committees be furnished, upon request, by the stenographers of the various committees, to the delegates, and that suitable arrangements for a sufficient supply of such minutes be made.

The President — The Committee on Contingent Expenses.

The Secretary — By Mr. Buxbaum: Resolved, That the Convention extends its thanks to the Hon. Thaddeus C. Sweet, Speaker of the Assembly, and to Hon. Francis M. Hugo, Secretary of State, for their valuable services rendered prior to and in the organization of this Convention.

The President — All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

The Secretary — By Mr. Buxbaum: Whereas, There have been but very few changes in the present Constitution since its adoption, and

Whereas, It is deemed advisable that only such changes therein be made by the delegates to this Convention as may be necessary to meet existing conditions, and

Whereas, It is advisable that the efforts of the delegates be concentrated upon the desired changes and that the work of this Convention be performed as speedily as consistent with careful and thorough consideration of the matters requiring its special attention, be it

Resolved, That this Convention give its main attention to the following amendments to the present Constitution:

First. An amendment changing the present judicial system and limiting exemptions from performance of jury duty;

Second. An amendment changing the present methods of taxation;

Third. An amendment concerning the State finances, revenues and expenditures;

Fourth. An amendment concerning the conservation of the natural resources of the State;

Fifth. An amendment relative to workmen's compensation and rights;

Sixth. An amendment relative to civil service appointments, promotions and removal of civil service employees;

Seventh. An amendment providing for a new legislative apportionment and fixing the number and terms of Senators and Assemblymen, their compensation, powers and procedure;

Eighth. An amendment relative to the short ballot.

Mr. Wickersham — I move to lay that motion on the table.

The President — It is moved to lay this resolution on the table. All in favor of the motion say Aye, contrary No. The motion is agreed to and the resolution is laid upon the table.

Mr. A. E. Smith — Mr. President, I offer the following proposed amendments.

The President — We are now in the order of resolutions, Mr. Smith, and this will lie until the next order of business.

Mr. Wiggins — Mr. President, I offer the following resolution.

The Secretary — By Mr. Wiggins: Resolved, That the Clerk of this Convention procure from the clerk of the Appellate Division of each department the number of appeals from orders and judgments filed during the calendar year and the number of appeals upon the calendar which have not been reached for argument on the 1st day of January for each year during the past three years, and during the years 1900, 1901, 1902.

The President — Referred to the Committee on Library and Information.

Mr. Cobb — Mr. President, I offer the following resolution.

The Secretary — By Mr. Cobb: Resolved, That the Attorney-General be requested to furnish to this Convention, with all convenient speed, the following information relative to matters pending before the Court of Claims.

First. The number of claims pending, classified by the years in which the claims were filed;

Second. The amount involved in the claims so filed, also classified by years;

Third. The number of claims disposed of by the Court of Claims or Board of Claims in each year of the last five years;

Fourth. The number of claims adjusted without recourse to the Court of Claims or Board of Claims in each year of the last five years;

Fifth. The total amount paid by the State in satisfaction of claims in each year of the last five years;

Sixth. The geographical distribution of pending claims, stated by counties;

Seventh. A classification of pending claims by number and amount involved, showing:

1. Claims arising from appropriations made by the State in the course of the Barge canal improvement;
2. Cases on contract growing out of the Barge canal improvement;
3. Cases in the nature of tort growing out of the Barge canal improvement;
4. Cases on contract, unrelated to the Barge canal improvement;
5. Cases in the nature of tort unrelated to the Barge canal improvement.

The President — The Committee on Library and Information.

The President — Propositions for Constitutional Amendment.

The Secretary will call the roll by districts.

Mr. Pelletreau — Mr. President, I offer the following.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — To amend Section 2, Article I, of the Constitution, in relation to trial by jury.

The President — Committee on Bill of Rights.

Mr. Steinbrink — Mr. President, I offer the following.

The Secretary — By Mr. Steinbrink: Proposed Constitutional Amendment.

Second reading — By adding Section 24 to Article VI, regulating the office of official referee.

The President — Committee on Judiciary.

Mr. Bayes — Mr. President, at the request of one of my constituents, I desire to offer the following.

The Secretary — By Mr. Bayes: Proposed Constitutional Amendment.

Second reading — To amend Section 6, Article X, of the Constitution, in relation to sessions and final adjournment of the Legislature.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Bayes: Proposed Constitutional Amendment.

Second reading — To amend Section 11 of Article III of the Constitution, in relation to adjournment of the Legislature.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Bayes: Proposed Constitutional Amendment.

Second reading — To amend Section 13 of Article III of the Constitution, in relation to the introduction of bills.

The President — Committee on Legislative Powers.

Mr. A. E. Smith — Mr. President, I offer the following.

The Secretary — By Mr. A. E. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to minimum wage.

The President — Committee on Industrial Relations.

The Secretary — By Mr. A. E. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to delegation of legislative powers in matters affecting employees.

The President — The impression of the Chair is that this matter should go to the Committee on Legislative Powers, and that reference will be made.

The Secretary — By Mr. A. E. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to power of the Legislature to prohibit manufacture in dwellings.

The President — The same reference will be made.

The Secretary — By Mr. A. E. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article I of the Constitution, in relation to legislation affecting employees.

The President — It is not perfectly clear, but the Chair is inclined to think that this should go to the Committee on Industrial Relations. That seems to be the disposition that should be made. Has Mr. Smith any suggestion to make as to the reference?

Mr. A. E. Smith — Mr. President, either reference would cover the subject-matter of the Proposed Amendment, but it is really a proposal to give power to the Legislature that it does not now possess.

Mr. Parsons — May the title of the Proposed Amendment be read again?

The President — The Secretary will read the title.

The Secretary — To amend Article I of the Constitution, in relation to legislation affecting employees.

Mr. Parsons — I suggest that primarily that should go to the Committee on Industrial Relations.

Mr. A. E. Smith — Mr. President, it would satisfy me if all four of my amendments be referred to the Committee on Industrial Relations. They all have to do with labor.

The President — That reference may be made. All four of these amendments offered by Mr. A. E. Smith will be referred to the Committee on Industrial Relations.

The President — The Clerk advises the Chair that only one copy of a Proposed Amendment has been handed up and Mr. Ahearn will kindly procure another copy.

Mr. Ahearn — Mr. President, I would ask unanimous consent to hand that up and later on I will furnish the Clerk with the other copy.

The President — That may be done, unless there is objection. It is somewhat important because unless the copies are furnished it cannot go to the printer or appear in its regular place. Without objection, this Proposed Amendment will be received later.

The Secretary — By Mr. Baldwin: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I of the Constitution, in relation to the trial of civil actions in the Supreme Court.

The President — Committee on Judiciary.

The Secretary — By Mr. C. Nicoll: Proposed Constitutional Amendment.

Second reading — To amend Sections 7 and 8 of Article VI of the Constitution so as to provide for the appointment of the chief judge and associate judges of the Court of Appeals by the Governor, by and with the advice and consent of the Senate.

The President — Committee on Judiciary.

The Secretary — By Mr. Blauvelt: Proposed Constitutional Amendment.

Second reading — To amend Article VII of the Constitution, in relation to the application of excessive accumulations in the sinking funds.

The President — Referred to the Committee on State Finances.

The Secretary — By Mr. Winslow: Proposed Constitutional Amendment.

Second reading — To amend Section 1, Article XII, of the Constitution, in relation to the hours of duty of city employees.

The President — Committee on Cities.

Mr. Barrett — Mr. President, I offer the following.

The Secretary — By Mr. Barrett: Proposed Constitutional amendment.

Second reading — To amend Article X, Section 2, in relation to a county department of assessment and taxes.

The President — Committee on County, Town and Village Government.

Mr. Barrett — That is essentially a taxation question. I ask that that be referred to the Committee on Taxation in the first instance.

The President — That reference will be made, to the Committee on Taxation instead of to the Committee on County, Town and Village Government.

The Secretary — By Mr. Barrett: Proposed Constitutional Amendment.

Second reading — To amend Article III and Article X, in relation to the government of counties, restricting the powers of the Legislature to the enactment of general laws and providing for the submission to the electors of certain propositions in reference thereto.

The President — The Chair is under the impression that this should go to the Committee on County, Town and Village Government; unless there is some other suggestion that reference will be made.

Mr. Rosch — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Rosch: Proposed Constitutional Amendment.

Second reading — To amend Section 9, Article I, of the Constitution, to provide for the regulation of strikes, lockouts and industrial differences.

The President — Committee on Bill of Rights.

Mr. Parsons — If you will refer that to the Committee on Industrial Relations — I think another Constitutional Amendment in relation to the same subject has been referred to the Committee on Industrial Relations.

The President — That may be; the Chair thinks, however, upon examination of this amendment, that it so clearly affects several of the provisions of the Bill of Rights that the reference made is proper.

Mr. Wiggins — Mr. President, I offer the following amendments. The amendment with respect to free transportation I desire to note as being offered by request.

The Secretary — By Mr. Wiggins, by request: Proposed Constitutional Amendment.

Second reading — To amend Article XIII, Section 5, by authorizing the Legislature to provide for the issuance of free transportation on the railways in the State to police officers to any municipality of the State.

The President — Unless there is a different suggestion, that will be referred to the Committee on Public Utilities.

Mr. Wiggins — I have not given it enough consideration to suggest any committee other than that you have mentioned.

Mr. Low — If that refers to police officers and municipalities, should it not be referred to the Committee on Cities?

The President — It is general and applies to all public officers, but that is only one end of the proposition; the other end to be considered is the corporations which transport. I think the Public Utilities Committee is the proper committee.

The Secretary — By Mr. Wiggins: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 7, of the Constitution, to provide that members of the Legislature may act as notary public or commissioner of deeds during their term of office.

The President — Committee on Legislative Organization.

The Secretary — By Mr. Vanderlyn: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I of the Constitution, in relation to trials by jury.

The President — Committee on Judiciary.

Mr. Marshall — Mr. President, I do not know really what the terms of that amendment are but we have in the Committee on Bill of Rights at least half a dozen different proposals in regard to the jury system and trial by jury. I would like an opportunity to have that sent to the Committee on Bill of Rights, if it is found to be germane to the other amendments.

The President — It was a doubtful question whether it belongs to the Committee on Judiciary or Committee on Bill of Rights. It may go to the Committee on Bill of Rights, if no one objects.

Mr. Vanderlyn — There are other similar amendments in the Bill of Rights and I suppose that it would naturally go to the Bill of Rights Committee.

The President — The amendment provides for a verdict by five-sixths of a jury in civil actions.

Mr. Marshall — Mr. President, we have several similar proposals which deal with that, some by three-fourths and some by a majority.

The President — It would be very appropriate if referred to either committee, but the reference will be made to the Committee on Bill of Rights.

The Secretary — By Mr. McKean: Proposed Constitutional Amendment.

Second reading — To amend Section 7, Article VII of the Constitution of the State of New York, relating to the Forest Preserve.

The President — Committee on Conservation.

Mr. Bunce — Mr. President, by request of some of my constituents, I propose the following amendment to extend the jurisdiction of inferior local courts in cities of the second and third classes.

The Secretary — By Mr. Bunce, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 18 of Article VI, in relation to inferior local courts, by increasing territorial and personal jurisdiction.

The President — Committee on Judiciary.

Mr. Deyo — Mr. President, I offer the following.

The Secretary — By Mr. Deyo: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article IV of the Constitution, in relation to the approval of bills passed by the Legislature.

The President — Committee on Legislative Powers.

Mr. Sanders — Mr. President, I offer the following.

The Secretary — By Mr. Sanders: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article X of the Constitution, in relation to the election and appointment of city, town and village officers.

The President — Committee on County, Town and Village Government. The Chair does not know whether that reference was correct, or met with the approval of the Convention or not. The reference suggested by the Chair was to the Committee on County, Town and Village Government.

Mr. Sanders — Mr. President, other amendments relating to this same section have gone to the Committee on County, Town and Village Government.

The President — Very well, that reference will stand.

Mr. R. B. Smith — Mr. President, I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article IV of the Constitution, by adding a new section thereto, in relation to the power of the Governor to amend a bill which imposes a direct State tax.

The President — Committee on State Finances.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 5 of Article II of the Constitution, in relation to the manner of voting.

The President — Committee on Suffrage.

The Secretary — By Mr. Ahearn: Proposed Constitutional Amendment.

Second reading — To amend Article XIV; amendments to Constitution, how proposed, voted upon and ratified.

The President — Committee on Future Amendments.

Mr. Ahearn — It simply applies to the Legislature, and gives them the right to fix a day other than the day of general election, in relation to voting on all Constitutional Amendments.

The President — The Chair thinks that belongs to the Committee on Future Amendments.

Mr. Ahearn — All right.

The President — It will be a necessary part of any scheme for that purpose.

The President — Reports of standing committees.

Mr. Low — Mr. Chairman, before we leave that order, may I call attention to the suggested amendment proposed by Mr. Sanders yesterday, relating to cities and villages, that was referred to the Committee on Cities? I am inclined to think that the amendment which he proposes to-day ought also to go to the Committee on Cities.

Mr. J. S. Phillips — Mr. President, in regard to the proposal to which reference has just been made by Mr. Low, the Sanders proposal introduced yesterday, which in a way limits the power of the Legislature, it seems to me should have gone to the Committee on Legislative Powers. It is a limitation upon the power of the Legislature.

The President — Of course many of these amendments affect different branches of the government of the State, and one would go to one committee, and another to another. The Chair has endeavored as far as possible to regard the controlling characteristic of the amendment in determining to which of several committees the reference should be made. The amendment which was offered by Mr. Sanders yesterday, and which was referred to the Committee on Cities, appeared to be in the main a change in the provisions regarding cities of all classes, and this amendment which is now offered seems to the Chair to be in the main a regulation of conduct. The Chair thinks the reference was correct, although it is a matter about which no one would be justified in being "pig-headed." Many of these references will require the cognizance of different committees. It is inevitable.

Reports of standing committees.

Reports of select committees.

Mr. Berri — Anticipating the resolution that was offered this morning regarding the work of the Printing Committee, the Committee itself had started to investigate all of the questions that were propounded in this resolution. We appointed a subcommittee for that purpose, consisting of Messrs. Betts and Mereness, who have made their report to me as chairman of the Committee. We have now been here about one month, and during that period we have got along very well, regarding the documents and papers. It is only within the last few days since the clerks of the committees have been appointed, that the supply of any of the documents has become exhausted. It was at the beginning the purpose of your Committee to be economical in its recommendations to you, as to the number of documents to be printed, and you authorized a report made early in the sessions of this Convention

to authorize at that time and until further notice the printing of a certain quantity of the documents. Now, during this period, information has been gathered regarding the demand for our printed papers, and we have not yet arrived at a conclusion as to the quantity that is actually needed. The machinery you must remember was all very new, but the matter is being ironed out, and we are getting closer to the needs of the Convention, I believe. Unfortunately, at the start, we did not have a document clerk. The consequence was that the documents, as placed in the document room, while safeguarded so far as the general public was concerned, were free to the pages, and free to the delegates, and they took all documents there, whenever they thought they needed them. The consequence was the supply of many of them was speedily exhausted. If there had been a document clerk there, checking up the various things, we would have known more about it; but in that, as in other things in the opening of a convention like this, experience teaches us the necessity, and then we find the remedy.

Now, our Committee had a number of meetings. They had one yesterday, and we are striving to find out just what the Convention really needs and desires. It may be interesting to the inquiring members for me to give them the substance of the report of this subcommittee, which reads that the document room is receiving daily from the printer of the Record, 700 copies; of the documents, 500 copies; of the Journals, 200 copies, with more to come after the Clerk has corrected all errors that may be found in the Journal; of bills or propositions, 500 copies. Now, that is in accordance with the resolution of the Convention, and each delegate, as you know, is entitled to one copy on his file, and if he so desires it, one copy in his home, and the regular demand from the members now comes very close to the number that we print; that is, the subcommittee hears that it is required for the document clerk, 5 copies; for the Journal clerk, 5 copies; for the Legislative Record, 25 copies; for the Educational Department, 10 copies; for the State Library, 5 copies —. Now, we have known at all times, Sir, that we were going to need more copies; that, in the discussion in your room of the various committees, it was determined that, as we proceeded, we should need more. We did not know what the public demand would be. The public demand for copies of the documents has been much larger than we had anticipated. The presumption in our Committee was that these were merely proposals, and that the public would not be interested to the extent they have shown that they are. We now find ourselves in the situation that practically all of the Propositions from 1 to 96 are gone, and there are only 25 or 30 or 40 copies left of the others. There are practically no copies of

documents for outside distribution. Now, that we may have information from any of those who possess it here, or who think they do, or who have suggestions that are of value, the Printing Committee would request that they appear before it to-day. We shall have a meeting immediately after this session, and we will request anybody who desires to make suggestions to the Printing Committee to be there and give us those suggestions, and we will act upon this matter as speedily as it is possible to do. Meanwhile, we will all have copies on our desks, and incidentally I will say a word in regard to criticism that has been made at my desk regarding the filing of the documents. For instance, yesterday the Proposed Amendments were not filed, and the papers were. The chief page, as an excuse or reason why, says that the documents arrive at 9 o'clock, and that there were, I think, twenty-four amendments proposed, which came in bundles of 500 each, and those twenty-four amendments had to be sorted out and arranged in order, which is quite a job for 168 desks, and he was not ready in time to put them on the desks. This has been remedied. We have asked the printer, and he has been very nice about it, to deliver them half an hour earlier, which they did to-day, and every document was filed and in its place ten minutes before the opening of the session. I think there will be no more trouble about that. The representative of the printing company, Mr. Winchester, with whom we have more immediate contact, has been elsewhere in the last week or two and has returned, and will give it his immediate personal attention, and I do not think the Committee will have any more cause for complaint.

Mr. J. G. Saxe — Mr. President, may I ask unanimous consent to introduce a proposition at this time?

The President — Without objection the proposition will be received.

The Secretary — By Mr. J. G. Saxe: Proposed Constitutional Amendment.

Second reading — To amend Section 18, Article III, of the Constitution, in relation to the limitation of the powers of the Legislature to pass private or local bills.

The President — Committee on Legislative Powers.

Mr. Baldwin — Mr. President, I would like to call attention to a resolution, or a proposition introduced this morning, No. 197, which was referred to the Committee on Judiciary. It relates to the trial of cases in the Supreme Court, but it amends the section in regard to the Bill of Rights, and involves the whole question of trial by jury, and after considering it very fully, it appears that similar propositions have been referred to the Committee on Bill of Rights and after consultation with Mr. Marshall, I would

like to have that reference changed and have the proposition referred to the Committee on Bill of Rights.

Mr. Wickersham — Mr. President, I think that all these bills in being referred to the Committee on Bill of Rights should be referred with the suggestion that that Committee confer with the Committee on the Judiciary regarding them. They all deal not only with the trial by jury, but they deal with some of the provisions fixing and establishing or regulating judicial procedure, and they all concern the judiciary. I therefore move to amend that reference to the Bill of Rights Committee, and have it referred with instructions to that Committee to confer with the Committee on Judiciary.

Mr. Marshall — Mr. President, the Committee on Bill of Rights has this group of proposals which deal essentially with the right of trial by jury. It is proposed to change that fundamental right; in some respects to abrogate the rule of unanimity; in some respects to define the proportion of jurors who may determine a case; the rules varying in criminal cases and civil cases. The Committee believes that it is directly within the functions of the Bill of Rights Committee. We have had several hearings with respect to measures of this character and the Committee has them under very serious consideration. We have no objection to conferring with any other committee or any other committees of the Convention with respect to any matters which have been referred to the Committee on Bill of Rights, but the primary jurisdiction should certainly vest in the Committee on Bill of Rights, and we would have no hesitation — as we trust no other committee would have any hesitation that we asked the opportunity of to be heard in regard to matters which are before it, and which may legitimately come within the functions of the Committee on Bill of Rights — to confer with such other committee or committees. There can be no difficulty so far as the conference with the Judiciary Committee is concerned, because the chairman of the Committee on Bill of Rights is a member of the Judiciary Committee, and has frequently conferred with the chairman on Judiciary in regard to matters which pertain to that subject.

Mr. Wickersham — Mr. President, my motion went a little beyond the mere fact of friendly conference between members of respective committees. I take it that the Committee on Judiciary would not be acting within its powers if it should report concerning some matters wholly within the competency of another committee, and it is only by the reference, that I have moved, that it would be within its proper powers and functions to report concerning some of these matters. Now, it is quite true, and I do not question for a moment that most of these proposals fall

directly and primarily within the provisions affecting the Committee on Bill of Rights, but they also deal with methods of procedure, with methods of the organization and conduct of courts which come directly within the jurisdiction of the Committee on Judiciary. Hence, I move that officially and formally the attention of the Committee on Judiciary be called to these propositions, to the end, if it see fit, to report concerning these propositions, I hope, and as, no doubt would be the case, in harmony with the Committee on Bill of Rights; but my desire is to have that officially and properly called to the attention of the Committee on Judiciary as a matter within its proper functions.

Mr. Marshall — Mr. President, I believe that this is a matter which should be considered between the chairmen of the two committees, or among the members of the two committees, rather than have it made a subject of action by the Convention.

Mr. Wickersham — I press my motion, Mr. President.

The President — As to these various proposals with regard to the question of trial by jury, it is evident that they are modifying, or seek to modify, a provision of the Bill of Rights, and so far as that proposal goes it may properly belong to the Committee on Bill of Rights. It is also proposed, in addition to sweeping some part of, or some provision of, the Bill of Rights away, to amend the Constitution and affecting the frame work and scheme of the judicial system. In accordance with the suggestion made, the particular Proposed Amendment, which was referred to the Judiciary Committee, the amendment introduced by Mr. Baldwin, the reference will be changed and it will be referred to the Committee on Bill of Rights. The Chair is of the opinion that only one committee can have jurisdiction of a bill, or a Proposed Amendment, because Proposed Amendments are bills, in the general use of words describing the legislative procedure under the American system — but one committee can have jurisdiction of the particular bill. So that, if the bill is referred to the Committee on Bill of Rights, that Committee alone has possession of the papers and the power to report that back to the body referring it. There is, however, a procedure frequently followed under which references are made to committees not of bills which are instruments of legislative procedure, but directing the Committee to consider and report its opinion. The chairman of the Committee on the Bill of Rights, Mr. Marshall, will remember very well that the first important piece of business in the Constitutional Convention twenty-one years ago was a direction from the Convention to the Judiciary Committee to report its opinion upon a writ of prohibition that had been issued by the Supreme Court, and a very learned and able opinion by the

present chairman of the Committee on Bill of Rights on that subject will be found in the Record of the last Convention. The Chair suggests, if it meets with the approval and consent of the gentlemen concerned, that coincident with this reference of these bills to the Committee on Bill of Rights, that they be sent to the Judiciary Committee for its information, or that copies be sent to the Judiciary Committee for its information, with instructions to report its opinion regarding any and all characteristics of the Proposed Amendments which may affect the general judicial system.

Mr. Wickersham — Mr. President, I alter my motion to conform to the suggestions of the Chair.

Mr. Marshall — Mr. President, there will be no possible difficulty with regard to that. The Committee on the Bill of Rights is prepared to carry out that general theory of communicating with the Judiciary Committee or any other committee that may be interested in any particular subject, in its conclusions, and will invite their opinions. The opinions of every member of the Convention are invited with regard to every proposition which is to be submitted to that Committee. The only point that I have in mind is that there shall be no question as to divided responsibility. There must be some primary jurisdiction and, with that idea in mind, any arrangement that can possibly be suggested which will bring as many minds as possible to bear upon any proposition which is submitted to the Committee on Bill of Rights will be welcomed by every member of that Committee, especially the opinions of the members of the Judiciary Committee.

The President — Without objection then that order will be made that these amendments relating to jury trial are referred to the Committee on Bill of Rights and that Committee has jurisdiction of the amendments. Copies will be transmitted to the Judiciary Committee for its information and such expression of opinion as the Committee may feel disposed to make.

Are there any further reports of standing or select committees?

Mr. Haffen — Mr. President, I haven't any report. I desire to correct an erroneous idea, as a matter of information, that No. 174, introduced by me yesterday, is not an amendment of a legislative act, Chapter 727 of the Laws of 1907, but is an amendment of Article III, Section 5 of the Constitution of 1894.

Mr. Wiggins — If it is proper at this time I should like to make inquiry of the chairman of the Committee on Library and Information, without intending to suggest that they may not take as long as they choose to consider the matter, as to when a report will be made on the resolution offered by me under date of May 6th, with respect to procuring information from each State as to the number of State officers voted for at the last general election.

Mr. J. S. Phillips — Mr. President, the Committee on Library and Information will have a meeting immediately after adjournment this morning. That resolution has not yet been considered. We had a meeting yesterday morning but I do not recall that resolution being before the Committee.

Mr. Wiggins — It was introduced, Mr. Phillips, on May 6th.

Mr. J. S. Phillips — Possibly it may have been overlooked by the clerk of the Committee in not having the resolution before us.

Mr. Wiggins — I have no intention of hastening your action on the matter but I would like to call it to your attention, so that it may not be overlooked.

The President — Any further reports. Third reading of Proposed Amendments. Unfinished business of general orders. Special orders. General orders. Any further business to come before the Convention?

The Secretary — Regular meetings of the Canal Committee will be held every Thursday, immediately upon adjournment of the Convention, in Room 235. Special notices of hearings and conferences will be given by the chairman to each member personally.

Mr. R. B. Smith — The sergeant-at-arms, Mr. Haines, has been requested to appear as a witness in the libel action now in progress in Syracuse. I would recommend that he be excused for such purpose.

The President — Is there objection to permitting the sergeant-at-arms to appear for the purpose of testifying? Without objection the permission will be granted. The Secretary will read notices of Committee meetings.

Mr. Wickersham — If there is no further business to come before the Convention, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor will say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 10 o'clock to-morrow.

Whereupon, at 11:15 a. m., the Convention adjourned to meet at 10 a. m., Friday, May 14, 1915.

FRIDAY, MAY 14, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. H. Dyckheusen.

Almighty God, our Father, we humbly bow before Thee who are the Great Creator and preserver of this universe, and we beseech Thee that Thou wilt hear and answer us. We come unto Thee for wisdom in this hour of responsibility. We realize that these are times of great significance, and if ever there was need, we feel the need to-day of calling upon the name of our God. We beseech Thee that Thou wilt bless this our country and grant the spirit of wisdom unto them in authority, that they may guide aright and safely the Ship of State through these troubled seas. Be, we ask Thee, with the men who constitute this Convention. Grant that they may ask and receive wisdom in their deliberation. We ask, Oh, our God, that Thou wilt teach us to acquit ourselves like men, and to go about our work earnestly and unselfishly for the very welfare of our fellow-men, that it may be in harmony with Thy holy and blessed will, and that it may be for the welfare of our homes and our institutions, for the good of man, for the good of our State and country. We ask it in Jesus's name. Amen.

Mr. Wickersham — Mr. President, I ask leave to correct the Journal on page 75, correct the name of the stenographer to the Committee on the Judiciary from C. W. Barry to W. F. Barry.

The President — Without objection that correction will be made.

Are there any further corrections to the Journal of Wednesday last?

If there are no further objections to be suggested the Journal will stand approved as printed.

Presentation of memorials.

The Chair hands down communication in the nature of a memorial from the Chamber of Commerce of the State of New York signed by Charles L. Bernheimer, chairman of the Committee on Arbitration of the Chamber of Commerce, and members of that Committee, and the communication will be referred to the Committee on Judiciary.

Mr. Quigg — Mr. President, what is it about? Can we know what it is about, because I suppose these memorials are never printed.

The President — The Clerk will read the memorial for the information of the Convention.

Mr. Quigg — All I want is such of it as will give the sense of it.

The President — The Clerk will read it, as it is not very long.

The Secretary — To the Hon. Elihu Root, President, Constitutional Convention, Albany, N. Y.:

My Dear Sir: Economy — the economy that means conservation without harmful restraint — is in the air — is being sought in high and low places. Will you be so good as to give a measure of consideration to a means to this end, that we have long and earnestly tried to perfect? Our efforts have not been entirely unsuccessful. In discharging the work of the Constitutional Convention at Albany, we should like the Committee chairmen to consider the facilities for arbitration offered by the Chamber of Commerce of the State of New York, in connection with disputes and differences that arise in the daily work of the various departments. These mean economy in financial outlay and certainly economy in time expenditure. In the same way that merchants have found it a quick and economical method, the various departments of the government should find this handling of differences a short cut to settlement that gives better satisfaction both to contestants and their attorneys, when the latter are required. If the government in its commercial transactions were to avail itself, in case of difference or dispute, of organized arbitration such as is offered by our Chamber, and have it known that such recourse is favored, lower costs in the running of our government will result. The knowledge that business differences (particularly in the sale by merchants to the government) can be adjusted equitably and satisfactorily to both, without the alternatives of either a law suit or a rejection of merchandise upon technical grounds (merchandise which may be very perishable or not suitable for the market at large), will draw to the government requisitions an increased number of bids, thereby insuring better prices and terms to the government. It will eliminate the condition caused by few bids which the makers must make larger to compensate their risk of possible rejection of deliveries on technical grounds. Adherence to the Code provisions for arbitration as they now exist and reference under its provisions are encouraged. In order to facilitate this, the Committee on Arbitration of the Chamber of Commerce is ready to handle all cases that are referred to it for that purpose — provided, of course, they relate to questions of fact and are of a nature that we would ordinarily take had they been brought to us by merchants directly. In these cases questions of law and technical points do not come up. While the law provides only for arbitration after a dispute has arisen, we recommend that merchants who seek us on this

point insert into their contracts as standard for an arbitration clause the following:

All disputed questions of fact that may arise and occasion controversy relating to this contract shall be submitted to arbitration, under the rules for the time being of the Committee on Arbitration of the Chamber of Commerce of the State of New York. In the event of the failure of the parties to agree upon arbitrators, the Committee on Arbitration of the Chamber of Commerce is hereby authorized to select three impartial persons from the "Official List" of arbitrators, with the same force and effect as if their names were herein inserted. No litigation of any kind or character shall be instituted until such arbitration shall have taken place and the arbitrators made their award thereon.

We venture to quote from so eminent authority as yourself, whose views, as expressed in your speech before the American Bar Association, so fully cover our aim in the work we have done and attempt to do, that we can add little except to say that to carry out this principle we have provided machinery that has proved itself efficient. You may remember your words: "American procedure ought to follow as closely as possible the methods of thought and action of American farmers and business men and workmen. The law is made not for the lawyers, but for their clients, and it ought to be administered as far as possible along the lines of laymen's understanding and mental processes. The best practice comes nearest to what happens when two men agree to take a neighbor's decision in a dispute and go to him and tell their stories and accept his judgment. Of course, all practice cannot be as simple as that, but that is the standard to which we ought to try to conform rather than the methods of an acute, subtle, logical, finely discriminating, highly trained mind."

May we express the hope that you will yourself bring to the attention of the chairmen of the respective committees the importance of considering the methods of commercial arbitration in their relation to the handling of the business of the government as well as in the handling of the business of private individuals? The Constitution, in our judgment, should permit parties to agree in advance to submit controversies arising between them to arbitrators and the technical rules of law now hedged about such agreements should be abolished. Besides the State government in its various departments should be permitted to insert such provisions in contracts for sales of merchandise.

Very truly yours,

CHARLES I. BERNHEIMER,

Chairman, Committee on Arbitration, Chamber of
Commerce of the State of New York.

(and six other members of the Committee).

The Chair hands down a petition or memorial, signed by numerous citizens of the State, relating to sessions of the Legislature.

The Clerk will read.

The Secretary — To the Constitutional Convention: We, the undersigned, citizens and taxpayers of the State of New York, being of the opinion that annual sessions of the Legislature are unnecessary, do therefore petition the Convention to provide in the new Constitution for biennial sessions.

The President — Referred to the Committee on Legislative Organization.

The Chair hands down communication from the secretary of the State Bar Association, accompanied by a draft of Proposed Constitutional provisions.

The Secretary will read the communication.

The Secretary — To the President and Members of the Constitutional Convention: The accompanying draft of Proposed Constitutional provisions for the State of New York relating to the judiciary was presented to this Association at the adjourned meeting of the association held March 26, 1915, by the Committee whose names are signed to the prefatory note and I have the honor of forwarding the same to the members of the Constitutional Convention, pursuant to the following resolution adopted by the Association at said adjourned meeting:

“Resolved, That this Association not having been able to consider the proposition deems worthy of careful consideration by the Constitutional Convention the plan to consolidate the courts of the State into a single court conforming in general outlines to the existing system, but possessing the power to regulate its organization and procedure and thus adapt itself without constitutional or legislative enactment to the changing needs of the community.”

Very truly yours,

FRED. E. WADHAMS,
Secretary.

The President — Referred to the Committee on Judiciary.

The Chair hands down a communication from the teachers of Public School 22 in the borough of Queens, to be read and referred to the Committee on Education.

The Secretary — Hon. Elihu Root, President, Constitutional Convention, Albany, N. Y.:

Dear Sir: The teachers of Public School 22, twenty-eight in number, do earnestly protest any action by the Constitutional Convention tending to impair the permanency of the salary schedules and their absolute equality in the different boroughs of the city of New York. We believe that any uncertainty as to tenure

of office or amount of salary will react unfavorably upon the children of the city. We believe that the interests of the children, the most valued possession of the State, can be best conserved by retaining the present educational statutes.

Respectfully yours,

GRACE M. PERRY,
For the Teachers.

The President — Communication from Mr. Ten Eyck, Member of Congress from this district, which will be read.

ALBANY, N. Y.

Hon. Elihu Root, Chairman, Constitutional Convention, Albany,
N. Y.:

My Dear Mr. Chairman: I beg to make a suggestion to the Constitutional Convention, that the Constitution of the State be changed so as to permit the citizens of New York State who live in Washington and work there to register by affidavit with the board of registration in the district in which they live in place of being required to register in person. This will relieve the hardship now imposed on men whose legal residence is in New York State but who work and live in Washington, to be required to make two trips to their homes so as to be permitted to vote once. You can readily see that we do not want them to go to the expense of two trips to their legal homes to vote. If my suggestion is met with they will only have the expense of one trip at election time. Thanking you in advance for the attention you may give this I beg to remain, with kindest regards,

Very sincerely yours,
(Signed) PETER G. TEN EYCK.

The President — Referred to the Committee on Suffrage.

The Chair hands down a communication from Mr. Macey F. Deming, to be referred to the Committee on Suffrage.

(The communication is as follows:

TAPPAN, N. Y.

Hon. Elihu Root, Chairman, Constitutional Convention, Albany,
N. Y.:

Dear Sir: I would like to suggest an alteration in the clause of the Constitution relative to inmates of homes voting from the homes. In this place, Tappan, Rockland Co., N. Y., is situated a Home for German Masons supported principally by lodges in New York and Brooklyn. The inmates are aged men and women, none of whom resided in this election district before entering the Home. All of the men who are American citizens vote from the

Home in the sixth election district of Orangetown, Rockland Co. Rockland county has obtained an unenviable reputation and this election district is notorious all over the Congressional district. The inmates of this Home have been supposed to be controlled by an unscrupulous person. On election day they have been taken to the polls in a body and then taken to a hotel and entertained. It has been generally believed that whoever controlled the vote of the Home and the purchasable vote of the election district controlled the district. Certain things observable here lend color to the belief that it is advisable to be on good terms with the party who apparently controls the voter of the Home if it is desired to carry this election district. In 1912 the situation was believed to be so bad that a candidate for Member of Congress engaged a detective agency to protect his interests and it was proposed to challenge the votes of the inmates of the Home. Feeling ran high and there was considerable danger of violence. Nothing was done about the matter as one of the Supreme Court justices gave it as his opinion that the inmates of the Home had a right to vote as they were not objects of charity, but were supported by the members of the organization according to contract, that is, when they joined the organization one of the privileges obtained and contracted for was admission to the Home. Inmates of the almshouse have voted regularly from the almshouse up to the time this question arose. The grand jury made a presentment and sent a copy to each home in the county giving as its opinion that inmates of homes were not entitled to vote from the homes but this Home seems to be exempt, for the inmates still vote from it. The only way to get a decision in the matter is to drag one of these inoffensive old men through a court proceeding, which he would not understand, and which would have to be looked after by the managers of the Home. No one wishes to annoy these old men, for personally they are good citizens who annoy no one, have no interest in the community and never mix with the people. Still there are many who feel that it is wrong to have an organization establish a home in a community, obtain exemption from taxation for valuable property and then introduce into the community a lot of voters who really can control it, if they are managed by one party. With several such institutions in a county they might completely take the control out of the hands of the real members of the county. In this election district alone there are three institutions. With such a condition there will always be disputes and it is desirable that the status of such voters be fixed. If homes maintained by fraternal organizations do not come under the present provision of the Constitution, and it is intended to permit inmates of such homes to vote

from them, could it not be plainly so stated in the new Constitution? If the object is to punish a voter for being poor, or for having been incapacitated by service in the Army or Navy, or for being a student at an institution of learning this should be stated. In this vicinity the impression has been produced, principally by the Supreme Court justice, that being an object of charity was the reason why inmates of homes were forbidden to vote from the homes.

Very truly yours,

MACEY F. DEMING.)

The President — Also communication from James Wood, to be referred to the Committee on Military Affairs:

(The communication is as follows:

BRAEWOLD, MOUNT KISCO P. O., N. Y., *May 12, 1915*

Hon. Elihu Root, Chairman:

Dear Sir: Please have the following propositions submitted to the proper committee of the Convention:

No person shall be required to perform military service whose conscience forbids him to do so, or Members of the Religious Society of Friends and others who have conscientious scruples against military service shall be required to perform such service.

Very truly yours,

JAMES WOOD,

Chairman of Committee on Legislation of the
Society of Friends in America.)

The President — Also communication from Francis E. Tower, Superintendent of the Law and Order Union of the State of New York, to be referred to the Committee on Bill of Rights.

(The communication is as follows:

**THE LAW AND ORDER UNION OF THE STATE OF
NEW YORK, INC.**

ALBANY, *May 10, 1915*

Hon. Elihu Root, Albany, N. Y.:

Dear Sir: I desire to give my voice in favor of amending the jury law so that two-thirds (or three-fourths) can render a verdict. I had a case in which nobody doubted the guilt of the accused. The jury stood eleven for conviction and one for acquittal, and justice was cheated of her due. Practically that one man outvoted the eleven men. Not very consistent in a land where the majority are supposed to rule. Nothing could be more unAmerican and absurd.

Very respectfully,

FRANCIS E. TOWER.)

The President—Are there any further memorials or petitions? Communications from the Governor and other State officers? Notices, motions and resolutions.

The Secretary will call the roll by districts, numerically.

Mr. Berri — Mr. President, I don't know whether it is proper for me to call attention at this moment or not to the matter of printing. It is not a report of the Printing Committee, but a resolution which I think should be offered for the consideration of this Convention. In Rules Nos. 70 and 71, page 18 of the documents, it says that "There shall be printed, as of course, and without any special order, 1,000 copies of the Journal and of all reports of committees on the subject of constitutional revision." Rule 71 says: "Six hundred copies of the Journal and 600 copies of the reports as printed shall be bound and distributed as follows, viz.: To each member of the Convention, two copies; State Library, five copies; the Library of the Senate, five copies; the Library of the Assembly, five copies; the office of each county clerk, one copy; and the remaining copies to such libraries and other institutions as shall be designated by the President or by the Convention." It was not until yesterday, Sir, that we discovered that no provision at all had been made for printing these 1,000 copies that are ordered in the Rule No. 70, which says that "there shall be printed, as of course." Mr. Winchester, who represents the Lyon Company, informed us he had not received any orders for printing these, and wished from the Committee instructions and we felt that we had nothing to do with the case, and so, as a representative of the Committee, I thought the matter ought to be called to your attention, to the attention of the Convention, at once, as the days are going by, and these should be produced as we go along, and it would, therefore, seem to me proper at this time that this resolution, which I offer, and of which I ask adoption should be passed by this Convention. Before that is put, Mr. President, would it be proper at this time, or should it come under a report of the Printing Committee, to offer a resolution which they have to present to the Convention? Should the resolution from the Printing Committee come now?

The President — This is the order of business for resolutions. If this is a report of the Printing Committee, it comes later.

Mr. Berri — Well, they have a resolution to submit. Does that come later?

The President — That comes later.

Mr. Berri — This is a different resolution, Mr. President, which I am offering. It is simply to rectify what seems to me an oversight in these documents not having been ordered before, as we are getting well along in the Convention.

The President — It will be taken up in the order of reports.

Mr. Parsons — Mr. President, I offer the following resolution, and ask that it be referred to the Committee on Rules.

The Secretary — By Mr. Parsons: Resolved, That the chairmen of committees be requested to instruct their clerks to cause as early notice as practicable of hearings to be filed with the Secretary of the Convention, and that the Secretary cause a consolidated calendar of such hearings to be posted and kept posted on the bulletin board, showing the day and hour and place and subject of such hearings.

The President — Referred to the Committee on Rules.

Mr. Cobb — Mr. President, I ask that the Committee on Canals be discharged from consideration of Proposal No. 159, that it be amended as indicated, reprinted and recommitted to the Committee on Canals.

The President — Is there objection? If not, the Committee will be discharged, and the amendment of the proposal as indicated by Mr. Cobb will be made. Without objection, that order will prevail.

The President — Propositions for Constitutional Amendment. The Clerk will call the roll by districts.

Mr. Steinbrink — Mr. President, by request, I offer the following.

The Secretary — By Mr. Steinbrink, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 14 and Section 17 of Article VI of the Constitution, in respect to the consolidation of courts within the territorial limits of the city of New York.

The President — Referred to the Committee on Judiciary.

Mr. Wickersham — Mr. President, I offer the following.

The Secretary — By Mr. Wickersham: Proposed Constitutional Amendment.

Second reading — To amend Article III, in relation to exemption from jury service.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Wickersham: Proposed Constitutional Amendment.

Second reading — To amend Article I, in regard to trial by jury.

The President — Referred to the Committee on Bill of Rights, a copy to be submitted to the Committee on Judiciary, for its information, with authority to report such expressions of opinion thereon, as it may deem wise.

Mr. Shipman — Mr. President, I am requested to offer the following.

The Secretary — By Mr. Shipman: Proposed Constitutional Amendment.

Second reading — To amend Section 1, Article X, of the Constitution relative to county officers.

The President — Referred to County, Town and Village Officers Committee, unless there is some other suggestion.

Mr. Bunce — Mr. President, I offer the following proposition.

The Secretary — By Mr. Bunce, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article VII of the Constitution, in reference to the use and increase of the Forest Preserve, and use of the water resources of the State.

The President — Referred to the Committee on Conservation of Natural Resources.

Mr. Bunce — Mr. President, inasmuch as the Proposed Amendment has to do with taking private property under certain conditions, I would suggest that a copy of it be sent to the Committee on Bill of Rights.

Mr. Marshall — Mr. President, I did not get the substance of the resolution.

The President — It relates to the conservation of natural resources, the use and increase of the Forest Preserve, and the use of water power. In one aspect it would modify a provision in the Bill of Rights. Reference is made to the Committee on Conservation of Natural Resources, a copy of the proposition to be submitted to the Committee on Bill of Rights, with authority to submit such opinion as it may deem wise.

The Secretary — By Mr. Bunce: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, by adding two new sections providing for the appointment of a conservation commissioner and a water power and supply commissioner and prescribing their duties.

The President — Referred to the Committee on the Governor and Other State Officers.

Mr. Bunce — Mr. President, a similar measure that provides for a conservation commissioner was referred to the Committee on Conservation of Natural Resources, and, really, I think it is a companion measure to the other one proposed and ought to be given to that same Committee. Of course I defer to the opinion of the President, but it seems to me it ought to be given to the Committee on Conservation of Natural Resources.

The President — The purpose and intent of this proposition seems to be the establishment of the offices, to provide and execute the laws, relating to conservation, and so it seemed to the

Chair that the important aspect of the Proposed Amendment was its effect upon the general frame work of the executive organization of the State.

Would it agree with Mr. Bunce's view that the reference be to the Committee on the Governor and Other State Officers, and that a copy be transmitted to the Committee on Conservation to express its opinion as it may deem advisable?

Mr. Bunce — Yes, that is satisfactory.

The President — Then that order will be made.

The President — Reports of standing committees?

Mr. Wickersham — Mr. President, in the absence of Mr. J. S. Phillips, chairman of the Committee on Library and Information, I submit the following report and resolution and I move the adoption of the resolution.

The President — Report from the Committee on Library and Information. The Secretary will read.

The Secretary — Resolved, That the Comptroller be requested to furnish with all convenient speed to the Secretary of the Convention a statement showing the following information:

First. The official compensation received during the last fiscal year by the several county treasurers by way of salary;

Second. The fees they received and retained in addition to their salary and the amount of such compensation received and retained by them during the last year in a statement showing the source from which the fees are derived.

The President — Are there any remarks to be made upon the resolution?

All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The President — The resolution reported by the Printing Committee will be reported by the Secretary.

The Secretary — By Mr. Berri: Resolved, That the Secretary be directed to place an order at once for the printing necessary to comply with the provisions of Rules 70 and 71.

Mr. Cullinan — What relation does that order bear to the contract that has been entered into?

Mr. Berri — I would request the gentleman to read the rule "Rule 70. There shall be printed, as of course, and without any special order, 1,000 copies of the Journal and of all reports of committees on the subject of constitutional revision." That was never brought to the attention of the Printing Committee. It was supposed that they would be printed, as of course, and without any special order. The representative of the Lyon Company has been detained, as you know, elsewhere, on a celebrated case, and did not appear here until yesterday. If any member of the Printing Committee gave the matter any thought at all, it would

have been assumed by them, and was so stated, that the Secretary would have ordered these 1,000 copies, as of course. It was not in the province of the Printing Committee to determine about this thousand copies at all. The Printing Committee have been trying to furnish the number of copies that seemed to be necessary for the purposes of this Convention in session and as a matter of record here. It seemed to me that the language of the Rule is very plain. I could not answer regarding the contract, but I presume that the contract covers the case absolutely. These copies have not been printed. I think, if you order them printed at once, that the type is standing, and that the minimum expense will be incurred in their production. It is, therefore, the purpose of my resolution this morning to have the Secretary place this order at once, so that we may know precisely where we are at, and not delay in future printing, because all future printing, a number of copies are provided for in our contract. This thousand copies would be included in our contract and if we have been negligent in ordering these thousand copies in our regular procedure probably there would be some difficulty incurred; possibly, and possibly not; but in order to prevent this in the future on behalf of the Committee on Printing I have introduced this resolution.

The President — May the Chair inquire of Mr. Berri, chairman of the Printing Committee, whether that rule was not suspended for the time being by the clause of the Committee on Printing report of April 7th which appears on page 31 of the Journal: "And further recommended that, until further ordered, the number of copies to be printed shall be as follows: Of the proceedings of the Convention, 700; of the Journal, calendars, documents and Proposed Constitutional Amendments, 500 each."

Mr. Berri — Mr. President, that was for Convention purposes. The Printing Committee assumed, as of course, as I think most of us assumed, from the reading of this Rule 70, that they had nothing whatever to do with ordering that 1,000 copies. Manifestly, the ordering of 500 would be a disobedience of this rule, 500 that has been used for binding purposes and others. The reason, however, that it came back is that it is perfectly clear at the present moment that this thousand copies, in order to carry out these rules as prescribed, should be printed.

Mr. Mereness — Mr. President, may I suggest that the rule which requires the ordering of a certain number of copies is "as of course?" We naturally assume that the printing of that number of copies would rest upon the Secretary of the Convention or some other officer, and the additional fact that that standing rule, which requires that number to be ordered, as of course, was not adopted until a long time after the resolution calling for the number that was recommended by the Printing Committee.

Mr. Parsons — May I ask the chairman of the Printing Committee a question? Will this be a thousand copies in addition to those which have already been printed or will they merely bring up the number to a total of 1,000?

Mr. Berri — Mr. President, I can answer that by another resolution which will be immediately presented by the Printing Committee. It is simply to protect this provision, that this resolution, Mr. Parsons, has been prepared. It is in order to provide us with the number of copies as prescribed in the rules adopted by this Convention. That thousand copies has nothing to do with the recommendations of the Printing Committee for the use of this Convention. Let me read the language of the rule again: "There shall be printed, as of course, and without any special order" — the words are, without any special order. We only ask for a certain number of copies, and this is a special order that we are asking for.

Mr. Quigg — It seems to me that we have got copies enough of the Journal already, but this Rule 70 adds, "and of all reports of committees on the subject of constitutional revision." Now, why wouldn't it be a good idea to refer this — the resolution before us and the resolution that Mr. Berri is about to offer, to the Committee on Rules, so that this rule may be changed. This as of course rule, I do not see what we want a thousand more copies of the Journal for. That is not what the public wants, and we have got Journals enough, but when it comes to copies of the report, I think we need them. I suggest that the resolutions go to the Committee on Rules, so that that rule, No. 70, can be amended to take out the printing of a thousand copies of the Journal, when we have already got what we need.

Mr. President, I make that motion.

The President — Wouldn't it answer the same purpose if this were to be referred to the Committee on Contingent Expenses?

Mr. Quigg — Yes, sir.

The President — For this reason: the Committee on Contingent Expenses is now preparing, and will presently, I understand from the chairman, Mr. S. K. Phillips, early in the next week, that it will be ready to present to the Convention a comprehensive statement of the scale of expense to which we are now engaged.

Mr. Quigg — I amend my motion, Mr. President, to conform with your suggestion.

The President — So that we may cut our coat according to our cloth, and this subject of printing is one of the important elements of expenses.

Mr. Quigg — I make that motion, Mr. President.

The President — At the same time, the Committee on Contingent Expenses and the Printing Committee is making up, or the Secretary is making up at their request, a list of an appropriate number of names, or a list of libraries, educational institutions, bar associations and so on, to present to the Convention, and when we have a statement of the current expenditures to compare with the appropriation and this proposed mailing list, we will then be in a position to determine how many copies of these various documents we need to have printed. Therefore, I think the Committee on Contingent Expenses would be the proper committee to have possession of these various resolutions.

Mr. Quigg — Then, will the Chair understand that that is my motion?

The President — Is that satisfactory to the chairman of the Committee on Printing?

Mr. Berri — Mr. President, just a moment in explanation, if I may be permitted. It seems to me that it is a very wise provision, that we are making in Rules 70 and 71, and that the number of copies we are going to need is underestimated. I believe that this 1,000 copies is a very small number. You have got to remember — Mr. Quigg speaks of the Journal. That is a minor factor in the printing question. It is a mere trifle compared to the reports that are going to come from committees. Now, you will find that the thousand copies, when the reports of committees are distributed in the State of New York, and for filing purposes, and two copies to each member, that there will not be enough to go around, or anything like it, and that the number, in my opinion, will be largely increased. Mr. Quigg, I believe, will be one of those who will find it necessary, in order to satisfy the demand from the public, and from the newspapers — every newspaper office will want copies of this work — this is completed work of your Convention, of matters brought here for discussion, perhaps before it is made an amendment to the Constitution that we are going to present to the people — and I think that Mr. Quigg will be one of those who will find that 1,000 copies is a small amount. They go like the dew, and it is only in the interest of economy, which this Printing Committee keeps constantly before it, which is an unpopular position for a committee to be in, but we know what the Printing Committee must necessarily face and endure as it goes on. We believe that this is really in the interest of economy, and propose this resolution to start this printing of a thousand copies now. If in the course of a week or two you find there is a change of sentiment you can change the order, but you will not have any reason to do it in my opinion. We are making economy and our work is going on

day by day, and it will become harder and more expensive if we do not pass this resolution. That is the belief of your chairman of the Printing Committee.

Mr. Parsons — Mr. President, I would like to ask Mr. Berri a question. Won't the J. B. Lyon Company have the type standing until next week so that the matter can be dealt with on the same basis as now?

Mr. Berri — Mr. President, this idea of type standing is one that I fear is not thoroughly understood. The type goes on the press and when taken off it is cleaned, and, as I understand it, the operation is that the leads are taken out between the lines, the pages are tied up, and the type carted off and put in the safe deposit vault of the printing company for preservation against fire; and when we want extra copies, it has to be brought out of there and releaded, and repaged, and the proofs reread, and then made ready on the press for printing the number of copies. Now, all that has been saved has been the actual machine typesetting, which is a considerable amount in a large undertaking like this, but it is not a considerable amount on a small order, and it is so easy when the presses are running to print another thousand copies. The cost is comparatively trifling then, but when you add to this handling of this standing type, the cost comes very nearly back to the original cost. The only saving you can find in that case is the cost of running it through the type machine. This can lay over. It will be no more harmful perhaps next week than now. It only seems to me that the Secretary should carry out the provisions as laid down in Rules 70 and 71 and that never came before our Committee and we never expected it to come there; that we should be economical with the printing work of this Convention, and that is why this order ought to be given.

The President — Under the rule this resolution will have to stand over until the next legislative day, to give opportunity for debate.

The Chair suggests that the chairman of the Printing Committee present his other resolution in order that we may act upon it.

Mr. Berri — Yes, sir. The resolution is one which the Secretary will please read, and then I will explain it.

The Secretary — Resolved, In addition to the 500 copies of the Proposed Constitutional Amendments, Records, Documents and Journals already ordered, that 300 additional copies of the Record and 500 additional copies each of the Proposed Amendments and documents are hereby ordered on the conditions named in the letter of the J. B. Lyon Company to the chairman of the Printing Committee, dated May 13, 1915; and that hereafter,

until further ordered, 1,000 copies of each, including Journals, shall be regularly printed and delivered to the Convention.

Mr. Quigg — Mr. President, do I understand that when this comes up on the next legislative day, in its regular order of business, there is pending my motion to refer to the Committee on Contingent Expenses?

The President — That will be pending, or it can be renewed.

Mr. Quigg — Yes. I don't want it superseded by another. In other words, Mr. President, I am not objecting to the passage of these resolutions, but I do ask to know, as soon as possible, at what rate we are traveling, and until we know that it seems to me that we cannot act intelligently on these resolutions, and I want these resolutions, if I can have my way, to go to the Committee on Contingent Expenses until we do find out that fact.

Mr. E. N. Smith — I would like to make an inquiry. I notice that in Rules 70 and 71 they speak of the Journal, and I notice on my desk the Journal and the Record. I notice in the resolutions the use of the word "Record." Now, as I understand it, the Record contains all of the proceedings; the Journal contains a synopsis; and I would like to ask the chairman of the Printing Committee, when he speaks about printing a thousand copies of the Journal, as stated in the rule, whether there is any confusion on that subject as related to the Journal as we have it on our desks; or whether the rules and resolutions where they speak of the Journal mean really the Record?

Mr. Berri — Evidently the matter is confused, Mr. President. You are speaking about this last resolution, are you?

Mr. E. N. Smith — I am speaking about the meaning of your last resolution.

Mr. Berri — I haven't got the resolution here, but, Mr. President, we are out of printing in the Record room, practically, or in the document room, and it is a question of whether or not we would have a thousand copies of the Journal in the future.

Mr. E. N. Smith — I think the chairman of the Printing Committee has not answered my inquiry. The question I asked is this: the rules speak of printing a thousand copies of the Journal.

Mr. Berri — Yes, sir.

Mr. E. N. Smith — There is no mention in the rules of "Record." On our desks we have a Journal and we have a Record. What I desired to know was whether in proposing to supply additional copies of the Journal the meaning was to print the Record?

Mr. Berri — No, sir.

Mr. E. N. Smith — The Record being the complete proceedings and the Journal being the synopsis, and there being no occasion for duplication.

Mr. Berri — Of the documents we have here — Mr. President, it is proposed to produce 1,000 copies of each of these filed documents. Does that answer the question? The Journal and the Record, 1,000 copies of each.

Mr. E. N. Smith — That is the resolution?

Mr. Berri — Yes, sir. I will explain this immediate resolution, Mr. Chairman, containing the reference to the J. B. Lyon Company. There is no question whatever, and there cannot be, in the minds of any of the delegates, as to the necessity of passing this or some similar resolution. The Lyon Company informed us officially that we would need a larger quantity of these different papers, that they printed the number that we have asked for in this resolution, which gives them to us for immediate delivery. They will be here before Monday, if you pass this resolution. As we are entirely out of them all, and as there is a demand for quite a large portion of this number to-day with the Secretary, and as they come under the contract, there is no increased expense whatever. We are perfectly safe in passing the resolution and it is almost a necessity that we should do so.

The President — The resolution, under the rules, will stand over until the next legislative day.

Mr. Parsons — Mr. President, I hand up a supplemental report of the Committee on Rules, and move its adoption.

The Secretary — By Mr. Parsons: The Committee on Rules submits the following report.

The Committee on Rules as a supplemental report recommends the adoption of the following:

Resolved, That Minerva E. Broughton be employed by this Convention as stenographer for the Committee on Future Amendments, at a compensation of \$5 per day.

The President — Is there objection to the present consideration of this resolution? The Chair hears none. Are you ready for the question on the resolution?

Mr. F. L. Young — Mr. President, has Mr. Parsons conferred with the chairman of the Committee?

Mr. Parsons — Mr. President, this is done at the request of the chairman.

Mr. F. L. Young — I beg pardon, I did not see Mr. Hinman.

Mr. Hinman — Mr. President, I did not hear the resolution that was read, and I desire either to have it laid aside until I can examine it, if it relates to my Committee, or that it may be re-read.

The President — The Secretary will read the resolution for the information of the delegate.

The Secretary — The Committee on Rules, as a supplemental report, recommends the adoption of the following:

Resolved, That Minerva E. Broughton be employed by this Convention as stenographer for the Committee on Future Amendments, at a compensation of \$5 per day.

Mr. Hinman — Mr. President, that is perfectly satisfactory.

The President — All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Reports of select committees.

Third reading of amendments.

Unfinished business in general orders.

Special orders.

General orders.

Is there any further business before the Convention?

Mr. Blauvelt — Mr. President, I would like to correct an error in yesterday's Journal. I have discovered the error since we were in the regular order of business. On page 91, I am credited with having introduced a Proposed Amendment in relation to a county form of government. I find, by reference to the Record, that the amendment was introduced by Mr. Barrett of Westchester.

The President — This requires the unanimous consent. Is there objection to entertaining the motion of Mr. Blauvelt, to correct the Journal of May 13th, by striking out the name of Mr. Blauvelt, and inserting the name of Mr. Barrett in the next to the last paragraph on page 91?

The President — The Chair hears no objection. Without objection, the correction is in order.

Mr. Wickersham — Mr. President, I ask to be excused on Tuesday next, for personal reasons.

The President — All in favor of granting the excuse will say Aye, contrary No. The excuse is granted.

The postmaster asks notice to be given to the delegates which the Secretary will read.

The Secretary — All delegates not having keys to their respective desks, post-office or lockers will please report the same in writing to the Secretary, at the close of the day's session.

The President — The Secretary will give further notices.

Mr. M. J. O'Brien — May I be excused on Tuesday next?

The President — Mr. O'Brien of New York asks to be excused on Tuesday next. All in favor of granting the excuse will say Aye, contrary No. The excuse is granted.

Is there any further business?

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — It is moved that the Convention now adjourn. All in favor say Aye, contrary No. The motion is carried, and the Convention stands adjourned until 12 o'clock on Tuesday next.

Whereupon, at 11 o'clock a. m., the Convention adjourned, to meet at 12 o'clock noon, Tuesday, May 18, 1915.

TUESDAY, MAY 18, 1915

The President — The Convention will please come to order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, we acknowledge Thee as the giver of every good and perfect gift. Of Thy bounties we have all received gift upon gift, for the treasury of Thy goodness is infinite. May Thy manifold mercies quicken our souls to gratitude, incline our hearts to do Thy will and our feet to walk in the way of Thy righteous commandments. We invoke the inspiration of Thy Holy Spirit in behalf of Thy servants, the members of this Convention, as they set themselves to their appointed tasks. Direct them in their deliberations with counsels of pure wisdom and may the outcome of their labors be the establishment of the rights and liberties of the people of the Commonwealth upon the safest and surest foundations. For Thy Name's sake, Amen.

The President — Are there any amendments to the Journal of Thursday, the 13th? There being no amendments proposed the Journal for that day stands approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of the districts.

Mr. Parsons — Mr. President, I offer the following resolution and ask that it be referred to the Committee on Rules.

The Secretary — By Mr. Parsons: Resolved, That in lieu of Rules 70 and 71 the following be adopted:

Rule 70. There shall be printed, as of course, and without any special order, 1,000 copies of the Record; 800 copies of the Journal; 500 copies of the calendar; 1,000 copies of each document; 1,000 copies of each Proposed Constitutional Amendment; 1,000 copies of each report of a committee, or of the minority of the committee, on the subject of constitutional revision, in which are set forth the reasons for their recommendation.

Rule 71. Six hundred copies of the Record; 600 copies of the Journal and 600 copies of the report as printed shall be bound and distributed as follows: To each member of the Convention, two copies; State Library, five copies; the library of the Senate, five copies; the library of the Assembly, five copies; the office of each county clerk, one copy; and the remaining copies to such libraries and institutions as shall be designated by the President of the Convention.

Further resolved, That the Committee on Printing is hereby requested to carry out the provisions of Rules 70 and 71 as amended; that Rule 70, as amended, be deemed to supersede all rules and resolutions heretofore adopted in regard to the number of copies to be printed; that the extra number of copies to be provided because of the adoption of these resolutions be ordered on the conditions named in the letter of the J. B. Lyon Company to the chairman of the Printing Committee, dated May 13, 1915, and that the two resolutions by Mr. Berri on May 13th, in regard to printing, be laid upon the table.

The President — Without objection these resolutions will be referred to the Committee on Rules, and in connection with the reference the Chair will announce that he has been requested to ask for a conference or joint meeting of the Committee on Rules, the Committee on Contingent Expenses and the Committee on Printing, immediately upon adjournment of to-day's session.

Mr. Austin — Mr. President, I move that the Committee on Conservation be discharged from further consideration of my Proposed Amendment, Introductory and Print No. 128, that it be amended as indicated, reprinted and be referred back to the Committee.

The President — Is there any objection to the motion? The Chair hears none, and without objection it is so ordered.

Mr. Clearwater — Mr. President, I offer the following.

The Secretary — By Mr. Clearwater: Resolved, That the Secretary cause to be placed upon the corridor blackboards the names of the committees and the place and hour of their meetings.

The President — Does Mr. Clearwater wish immediate consideration?

Mr. Clearwater — Mr. President, there are many meetings of different committees which are of great interest to members of the Convention, who are not members of those committees, and not infrequently it is extremely difficult for the delegates to ascertain where and when the Committee will meet. Therefore, it has seemed that, if these blackboards in the corridors were lettered with the names of the committees, of the various committees, and the time and place of their meetings, it would be of considerable — a very great assistance in fact, to the delegates to the Convention.

It is a very simple matter. The blackboard can be painted over and all this can be obliterated when the Legislature convenes in January next.

Mr. J. L. O'Brian — Mr. President, the Committee on Rules has before it now an informal suggestion for a plan which, I think, would obviate the necessity for the Judge's resolution, it being our intention to make a recommendation to this body of

a daily calendar or bulletin board, not only of the places where the committees meet, but of all their hearings from day to day.

I therefore ask that the consideration of this resolution lie over until to-morrow.

Mr. Clearwater — Mr. President, that is a far better plan than my own, and I withdraw my resolution, and allow the other resolution of the Committee on Rules to be substituted. That would be a far better plan than my own suggestion.

The President — Would Mr. Clearwater object to having his resolution go to the Committee on Rules to be considered with the resolution already referred which appears on page 95 of the Journal?

The President — Without objection that resolution will be referred to the Committee on Rules to be considered in connection with the resolution now before it.

Mr. Marshall — I should like also to have considered by the Committee, in connection with that matter, a resolution which I introduced on the 7th of May, which appears on page 67 of the Journal, relating to one phase of the same subject.

The President — The Committee will take note of that.

Mr. Ostrander — Mr. President, I offer the following.

The Secretary — By Mr. Ostrander: Resolved, That the clerk of the Court of Claims and the Comptroller be and are hereby requested to transmit to this Convention, with all convenient speed, the following information relating to the Court of Claims and the Board of Claims and to matters pending and disposed of therein, during each of the ten years last past, so far as such information shall be of record in their respective offices, viz.:

First. The amount of salaries, fees, expenses and disbursements paid to all judges, attendants, clerks, stenographers and other employees, witnesses, counsel and agents, viz.:

Second. The number of days of actual sittings of such court or board in each year.

Third. The number of cases disposed of in each year and the aggregate of awards made in each year.

Fourth. The number of cases disposed of in each year, in which the award was \$500 or less and \$200 or less, respectively, and the aggregate of such awards in each year.

Fifth. The number of times the name of such court or board has been changed during said year, and the alleged reasons for such changes.

Further resolved, That the Superintendent of Public Works, the State Engineer and Surveyor and the Attorney-General transmit to the Convention, at their earliest convenience, the following information relating to matters pending and disposed of during each of the ten years last past, before the Court of Claims

and the Board of Claims, so far as such information shall be of record in their respective offices, viz.:

First. The amounts paid in each year to officers, employees, agents, investigators and representatives of such departments, respectively, for services, fees, expenses and disbursements in relation to matters before said courts or boards.

Second. The amounts paid or incurred for services, fees and expenses of witnesses, consulting experts, special counsel and otherwise in relation to matters before said courts or boards.

The President — Referred to the Committee on Library and Information.

Mr. Green — Mr. President, I offer the following.

The Secretary — By Mr. Green: Resolved, That the Committee on Printing be and is hereby requested to place contract, through the proper authorities, for the printing of 6,000 extra copies of all Proposed Amendments. Said amendments to be at the disposal of the delegates to this Convention and the distribution to include all of the newspapers published in their respective districts, as also all the public and school libraries, chambers of commerce, business men's associations, rotary and civic clubs, labor organizations, etc., balance to be sent to such of their constituents among the judges, lawyers, ministers, bankers, manufacturers, merchants and other professional, business and workmen as they may proportionately select, limiting the number of Proposed Amendments, however, to fifty copies for each delegate-at-large, and 100 copies to each of the fifty-one districts; the manner of distribution in said districts to be left to the three delegates from each district to mutually agree upon.

The President — Referred to the Committee on Contingent Expenses.

The President — Propositions for Constitutional Amendment.

The Secretary will call the roll of the districts.

Mr. Pelletreau — Mr. President, I offer the following.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — To amend Article IV, Section 4, in relation to the duties and powers of the Governor, compensation and State budget.

The President — Referred to the Committee on State Finances.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — To amend Article V, Section 1, of the Constitution, in relation to the appointment of the State officers, of the Governor and creation of the Governor's council composed of the State officers.

The President — Referred to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Pelletreau: Proposed Constitutional Amendment.

Second reading — To amend Article V, Section 2, by striking out that section and substituting in place thereof a provision giving the Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor, seats in the Legislature.

The President — This should go either to Legislative Powers or Governor and the Other State Officers. Has Mr. Pelletreau any preference as to which?

Mr. Pelletreau — I think if it will be referred to the Committee on Legislative Powers.

The President — That reference will be made.

Mr. Buxbaum — Mr. President, I offer the following.

The Secretary — By Mr. Buxbaum: Proposed Constitutional Amendment.

Second reading — To amend Section 20 of Article VI of the Constitution, in relation to qualifications of judicial officers.

The President — Referred to the Committee on Judiciary.

Mr. Sargent — Mr. President, I offer the following.

The Secretary — By Mr. Sargent: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article XI of the Constitution, in relation to compulsory voting.

The President — Referred to the Committee on Suffrage.

Mr. Newburger — Mr. President, I offer the following.

The Secretary — By Mr. Newburger: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article XI of the Constitution, in relation to appointing or electing election boards and officers from the enrolled voters of the election districts for which they shall be appointed or elected.

The President — Referred to the Committee on Suffrage.

The Secretary — By Mr. Newburger: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article X of the Constitution, in relation to extending the term of office of district attorneys to five years in the counties of New York and Kings and in counties whose boundaries are the same as those of a city, and making said district attorneys ineligible for re-election for the next term after the termination of their offices, and providing that all votes for any of said district attorneys for any other office given by the Legislature or the people shall be void.

The President — Referred to the Committee on County, Town and Village Officers.

Mr. Foley — Mr. President, I offer the following.

The Secretary — By Mr. Foley: Proposed Constitutional Amendment.

Second reading — To amend Section 4, Article III, of the Constitution, providing for enumerations, reapportionments and for an equitable apportionment of Senate districts.

The President — Referred to the Committee on Legislative Organization.

Mr. Kirk — Mr. President, I offer the following.

The Secretary — By Mr. Kirk: Proposed Constitutional Amendment.

Second reading — To amend Article VI, providing that justices of the Court of Appeals and Appellate Division shall be designated by justices of the Supreme Court.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Kirk: Proposed Constitutional Amendment.

Second reading — To amend Article III, abolishing Senate and providing for the election of the Assembly.

The President — Referred to the Committee on Legislative Organization.

The Secretary — By Mr. Sheehan: Proposed Constitutional Amendment.

Second reading — To amend Section 4, Article III, of the Constitution, by eliminating the provision with reference to decennial enumeration of inhabitants and providing that after 1916 reapportionments shall be based upon the Federal enumerations, thereby saving to the taxpayers approximately \$475,000 every ten years.

The President — Referred to the Committee on Counties, Towns and Villages, Their Organization, etc.

Mr. J. G. Saxe — Mr. President, I offer the following by request.

The Secretary — By Mr. J. G. Saxe: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to self-incrimination by a witness.

The President — Referred to Committee on Bill of Rights.

The Secretary — By Mr. J. G. Saxe, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I of the Constitution, in relation to trial by jury.

The President — Referred to the Committee on Bill of Rights,

a copy to be furnished to the Judiciary Committee for its information, with authority to express such report as the Committee may deem wise.

Mr. Low — I offer the following Proposed Constitutional Amendment, by request.

The Secretary — By Mr. Low, by request: Proposed Constitutional Amendment.

Second reading — To amend Article XIV, Sections 1 and 2, relating to future amendments, Constitutional Conventions.

The President — Committee on Future Amendments.

Mr. Bernstein — Mr. President, I offer the following proposition.

The Secretary — By Mr. Bernstein: Proposed Constitutional Amendment.

Second reading — To amend Section 5 of Article IV of the Constitution, in relation to reprieve, commutation and pardons.

The President — Committee on Prisons, Prevention and Punishment of Crimes.

The Secretary — By Mr. Bernstein: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article II of the Constitution, in relation to registration and election boards.

The President — Committee on Suffrage.

Mr. Donovan — Mr. President, I offer the following proposition.

The Secretary — By Mr. Donovan: Proposed Constitutional Amendment.

Second reading — To provide for a new section, in relation to civil service.

The President — Committee on Civil Service.

Mr. Griffin — Mr. President, I offer the following proposition.

The Secretary — By Mr. Griffin: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I of the Constitution, permitting the jury in all trials of persons charged with felony to fix the punishment.

The President — Committee on Bill of Rights, a copy to be furnished to the Judiciary Committee, that Committee to have power to report as they may deem wise.

Mr. Austin — Mr. President, I offer the following.

The Secretary — By Mr. Austin: Proposed Constitutional Amendment.

Second reading — To amend Article I, Section 6, of the Constitution, by providing that the Legislature may by law abolish, limit, change, amend or otherwise regulate the grand jury system.

The President — Committee on Bill of Rights, with copy to the Committee on the Judiciary, that Committee to have authority to report an expression of its opinion as it may deem wise.

Mr. Clearwater — Mr. President, I offer the following.

The Secretary — By Mr. Clearwater: Proposed Constitutional Amendment.

Second reading — To amend Section 12 of Article VI of the Constitution, so as to provide that justices of the Supreme Court shall receive from the State the sum of \$15,000 per year, and that those assigned to the Appellate Division of the Third and Fourth Departments shall receive only the like amount.

The President — Committee on the Judiciary.

Mr. E. N. Smith — Mr. President, I offer the following.

The Secretary — By Mr. E. N. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 13 of Article VI of the Constitution, in relation to the exercise of his office by the Governor or Lieutenant-Governor, after impeachment.

The President — The Committee on the Judiciary.

The Secretary — By Mr. E. N. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article IV of the Constitution, in relation to the powers of the Lieutenant-Governor in case of the impeachment of the Governor.

The President — Committee on the Governor and the Other State Officers.

Mr. Lindsay — Mr. President, I offer the following.

The Secretary — By Mr. Lindsay: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 29, of the Constitution, to provide for the occupation of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories, and disposal of the products of their labors.

The President — Committee on Prisons and the Prevention and Punishment of Crime.

The Secretary — By Mr. Lindsay: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 2, and Article X, Section 6, of the Constitution, providing for biennial sessions of the Legislature, extending the terms of office of its members, and fixing the time when the political year and legislative term shall begin and the time when the Legislature shall assemble.

The President — Committee on Legislative Organization.

The President — Reports of standing committees.

Mr. Marshall — Mr. President, before leaving this order of

business, I desire to call attention to Proposed Constitutional Amendment, Introductory No. 203, which, on the 13th of May, was referred to the Committee on Bill of Rights. After conference with Mr. Parsons, I am willing to have the reference changed, so it shall be referred primarily to the Committee on Industrial Relations, subject, however, to the expression of opinion in regard to the subject by the Committee on Bill of Rights.

The President — Is there any objection to this changing of reference? Without objection, the change will be made as indicated in the motion by Mr. Marshall.

Mr. Westwood — Mr. President, I ask unanimous consent that Mr. Whipple be excused for the day because of enforced absence from the city.

The President — Is there any objection? The Chair hears none and Mr. Whipple is excused.

Mr. Brackett — I ask unanimous consent, Mr. President, that Senator Allen, from the Rensselaer district, may be excused on account of illness for this week.

The President — Is there any objection to the request of Mr. Brackett that Mr. Allen be excused? The Chair hears none and Mr. Allen is excused.

A Delegate — Mr. President, I ask unanimous consent that Mr. Tuck of Rochester be excused from to-day's session.

The President — A request has been made that Mr. Stanchfield be excused also. Is there any objection to Mr. Stanchfield and Mr. Tuck being excused? The Chair hears none and Mr. Stanchfield and Mr. Tuck are excused.

Mr. Stowell — Mr. President, Mr. Cullinan desires to be excused from attendance to-day and to-morrow by reason of business engagements.

The President — Is there any objection to the request? The Chair hears none and Mr. Cullinan is excused.

Reports of select committees.

Third reading of amendments.

Unfinished business in general orders.

Special orders.

General orders.

Is there any further business before the Convention?

Mr. J. L. O'Brian — Mr. President, the Committee on Rules makes a supplemental report and I move the adoption of the resolution therein embodied.

The Secretary — The Committee on Rules, as a supplemental report, recommends the adoption of the following:

That John J. O'Connor be employed by this Convention as secretary to Vice-President O'Brien at a compensation of \$10 per day.

The President — Is there any objection to the present consideration of the resolution? The Chair hears none, and the resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. Resolution is agreed to.

Is there any further business to come before the Convention at this time?

Mr. J. L. O'Brian — Mr. President, if there is no further business to come before the Convention, I move that we do now adjourn.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is carried and the Convention stands adjourned until 10 o'clock, Wednesday morning.

Whereupon, at 12:45 p. m., the Convention adjourned, to meet at 10 o'clock a. m., Wednesday, May 19, 1915.

WEDNESDAY, MAY 19, 1915

The President — The meeting will please come to order. Prayer will be offered by Rev. Clement Graham Martin, D.D.

The Rev. Dr. Clement Graham Martin — O, Jehovah, God, who rulest over all the kingdoms of the earth, Thine eye beholdeth the nations; by Thee princes rule even all the judges of the earth, and Thine, O Lord, is the kingdom and the power and the glory forever. We bless Thee for the independence, the freedom, the order of this nation; for the patriotism of our rulers, and the spirit of unity and peace among our people. Bless Thy servants, the President of the United States and the Governor of this State of New York. Bless the Army and Navy and all who are in places of authority throughout the land. Bless this Constitutional Convention in its deliberations this day and every day. Fill its councils with judgment and righteousness; may the fear of the Lord be our treasury, and wisdom and knowledge the stability of our times. May we be kept from war and discord, from famine and pestilence and every evil. May Thy blessing enrich and sanctify the deeds of this day, and unto Thee, O God, shall be given all gratitude, through Jesus Christ, Our Lord. Amen.

The President — Are there any amendments to the Journal of the legislative day before yesterday as printed and distributed? There being no amendments, the Journal is approved as printed.

Presentation of memorials.

Petitions from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. M. Saxe — Mr. President, may I present a memorial?

The President — Without objection, the memorial presented by Mr. M. Saxe will be received, and the Secretary will read.

The Secretary — To the Honorable, the President and Delegates of the Constitutional Convention of the State of New York:

Your memorialists respectfully represent to your honorable body, that they constitute the board of trustees of "The Sheltering Arms" of the city of New York, which is a charitable institution duly incorporated in the year 1864, under the laws of the State of New York. That since its incorporation it has maintained a large number of dependent children between the ages of six and twelve years without regard to creed. It is supported mainly by voluntary contributions and income from its endowment fund. Its entire property is devoted to its charitable work, and was contributed by individual donors for said purposes. Its annual expenditures are about \$40,000. Neither the State nor any subdivision thereof has contributed any money or other aid toward the expense of carrying on its charitable work. Your memorialists, therefore, respectfully request leave to present for the consideration of your honorable body the following objections to any proposal now pending or to be submitted for an amendment to the Constitution, intended to nullify the present legislative exemption from taxation of the property of charitable institutions. It has been the policy of this State for many years to care for the helpless within its borders. It has assumed such care as a duty. The Constitution of 1894, Article VIII, Section 14, recognizes such by authorizing municipalities to make appropriations for charitable institutions, and under the broad powers conferred upon the Legislature, the State has to some extent established and maintains its own charitable institutions. These State institutions are, however, inadequate to meet all the demands for charitable service which might, consistently with State policy, be made upon the State. The State has, therefore, encouraged individual and associate efforts not only to supply to the full needs of its helpless citizens, but because such charitable institutions can render more effective service than the State, by reason of the sympathetic motive power which animates the voluntary individual service. This State encouragement has taken the logical form of placing all property employed in such service, whether of the State or of charitable associations, upon an equal footing as to taxation, namely, exemption therefrom. "These exemptions of property devoted exclusively to the work of public charity, where what they accomplish operates to the relief of public burdens,

are based upon reasons so forcible that they have seldom been contested." That they contribute to the general public welfare is the warrant for such exemption. (Cooley on Taxation, p. 145.) The withdrawal of the exemption from taxation, in whole or part, would indicate a change in State policy in this regard, to the extent of such exemption. Its operation would at once result, to like extent, in the reduction in number of beneficiaries which charitable institutions could maintain, and to such extent the burden would be placed upon the State. The State must, therefore, enter this field of charitable work, and at a cost which would at least equal the tax gained by the removal of the exemption. Hence no resulting gain. Experience has shown that where the State enters into any field of human endeavor, existing private efforts in the same field wane and ultimately cease. Contributions of money to aid in the work of charitable institutions are made because of the need of such institutions. When, however, the State takes upon itself the performance of such work, such need of private effort will disappear, and such contributions in consequence cease, and private means, desirous of employment in charities, will seek fields for such employment without the State. This proposed change in a long-standing State policy is not warranted on economic grounds. The increase of taxes by the removal of the exemption would be offset by the increase in cost to the State in the maintenance of its own institutions. It reaches beyond a policy of taxation, and not only tends to discourage individual charity, but would enlist the State in work upon which it should enter only when individual effort proves unequal to the occasion.

Respectfully submitted,

W. R. PETERS,

President of The Sheltering Arms of the city of New York,
Amsterdam Ave. and 129th St., New York City.

The President — The memorial will be referred to the Committee on Taxation.

Mr. Rodenbeck — Mr. President, I offer the following resolution, and move its reference to the appropriate committee.

The Secretary — By Mr. Rodenbeck: Resolved, That in presenting reports to the Convention, each committee be required to accompany its report with a concise statement of the reasons for each Proposed Amendment recommended by it, and that the reasons be printed in connection with the Proposed Amendment.

The President — Referred to the Committee on Rules.

The President — Propositions for Constitutional Amendment.
The Clerk will call the roll.

Mr. C. A. Webber — Mr. President, I offer the following.

The Secretary — By Mr. C. A. Webber: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, by adding a new section intended to deter the passage of so-called "ripper" or patronage bills.

The President — Referred to the Committee on Legislative Powers.

Mr. Berri — Mr. President, I offer the following proposition.

The Secretary — By Mr. Berri: A Proposed Amendment to the Constitution.

Second reading — To amend Sections 1, 2, 3 of Article V, by making provision for a short ballot, to consist of the Governor, Lieutenant-Governor and Comptroller, and making other State officers appointive, unless the people through their legislative representatives shall provide for their election as herein provided for, and by adopting a new section, to be known as Section 10, providing for a new State officer to be known as the Commissioner of Labor.

The President — Committee on the Governor and Other State Officers.

Mr. A. E. Smith — Mr. President, I offer the following.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article II of the Constitution, relative to permitting certain railroad employees absent from their place of residence to vote at general elections.

The President — Committee on Suffrage.

Mr. Baldwin — Mr. President, I offer the following.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to the public uses for which private property is being taken.

The President — Committee on Bill of Rights.

Mr. Olcott — Mr. President, I have amendments to propose.

The Secretary — By Mr. Olcott: Proposed Amendment to the Constitution.

Second reading — To amend the Constitution by adding a new article creating the Public Utilities Commissions and prescribing their jurisdiction, powers and duties.

The President — Committee on Public Utilities.

Mr. Griffin — Mr. President, I offer the following proposition.

The Secretary — By Mr. Griffin: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article III of the

Constitution, defining the legislative power and prohibiting its delegation or surrender.

The President — Committee on Legislative Power.

Mr. C. H. Young — Mr. President, I offer the following amendment.

The Secretary — By Mr. C. H. Young: Proposed Amendment to the Constitution.

Second reading — To amend Section 14 of Article VI of the Constitution, in relation to the County Court, the City Court of the city of New York, and the Court of General Sessions in the city of New York.

The President — Committee on the Judiciary.

Mr. Dunmore — Mr. President, I offer the following propositions by request.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, Section 17, of the Constitution, in relation to the jurisdiction of the justices of the peace and district court justices in cities.

The President — Committee on the Judiciary.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, in relation to the territorial jurisdiction of inferior local courts.

The President — Committee on the Judiciary.

Mr. R. B. Smith — Mr. President, I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XII of the Constitution, in relation to the delegation by the Legislature to cities and villages of power of local legislation.

The President — Has Mr. Smith any suggestion as to reference? It might go to the Committee on Cities, or Legislative Powers or to County, Town and Village Government.

Mr. R. B. Smith — I think it should go to Cities.

The President — That reference will be made.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 20 of Article VI of the Constitution, in relation to eligibility to judicial office.

The President — Committee on the Judiciary.

Mr. Cobb — Mr. President, I offer the following amendment. The one in relation to inferior local courts is offered by request.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, in relation to inferior local courts.

The President — Committee on the Judiciary.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Sections 1 and 2 of Article XIV, in relation to future amendments.

The President — The Committee on Future Amendments.

Mr. Green — Mr. President, I offer the following.

The Secretary — By Mr. Green: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to the retirement on half-pay of Civil War veterans who are civil service employees.

The President — Committee on Civil Service.

Mr. Betts — Mr. President, I offer the following.

The Secretary — By Mr. Betts: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article III of the Constitution, in relation to enumeration and the reapportionment of senatorial districts.

The President — Committee on Legislative Organization.

The President — Reports of standing committees.

Mr. J. L. O'Brian — Mr. President, the Committee on Rules makes the following supplemental report and recommends the adoption of the resolutions therein embodied.

The Secretary — By Mr. J. L. O'Brian: The Committee on Rules, as a supplemental report, recommends the adoption of the following: Resolved, That the resignation of Herbert T. Reed, as tally clerk, be accepted, and that he be employed as clerk to the Committees on Charities and County Officers at a salary of \$7 per day; and that Ralph E. Briggs be employed as stenographer to such Committees at a compensation of \$5 per day; and that William F. Brennan and Edward Van Cott be employed as clerk and stenographer to the Committee on Legislative Powers at a compensation of \$10 per day and \$5 per day, respectively.

The President — Are you ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to. Any further reports from standing committees?

The Secretary — By Mr. J. L. O'Brian: Resolved, That Harry B. Dingman be and hereby is appointed superintendent of documents in place of Benjamin W. Loring, resigned.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The Secretary — By Mr. J. L. O'Brian: Resolved, That no

person be admitted to the document room except the superintendent of documents, assistant superintendent of documents and the clerks employed under them.

The President — Are you ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. J. L. O'Brian — Mr. President, I offer the following as a report of the Joint Committees on Rules, Contingent Expenses and Printing, and move the adoption of the rules therein embodied.

The President — The Secretary will read the resolution.

The Secretary — The Committees on Rules, Contingent Expenses and Printing, after giving consideration to all the various resolutions introduced relating to the subject of printing and distributing of Records of this Convention, do hereby jointly recommend that the annexed Rules No. 70 and No. 71 be adopted by this Convention in lieu of Rules Nos. 70 and 71 of the existing rules of the Convention:

Rule No. 70: There shall be printed, as of course, and without any special order, 1,500 copies of the Journal; 500 copies of the calendar; 2,500 copies of Proposed Constitutional Amendments, and 3,500 copies of each report and minority report of a committee on the subject of constitutional revision or amendment, in which are set forth the reasons for their recommendation, to be printed as documents; 500 copies of each other document and 3,500 copies of the Record of the proceedings of the Convention.

Rule No. 71. The printed copies provided for in Rule 70 shall be disposed of as follows:

There shall be reserved for binding 1,200 copies of the Journal, 1,200 copies of the reports, 1,200 copies of the Record of the proceedings.

The copies so reserved for binding shall be folded, collated and held by the printer until the close of the Convention, when they shall be bound as directed by the President or the Convention and distributed as follows: To each member of the Convention, two copies; to the State Library, five copies; to the Legislative Library, five copies; to the office of each county clerk, one copy; to each public library of the State, one copy; to each bar association of the State, one copy; to each college and university of the State, one copy; and the remaining copies shall be distributed as designated by the President or the Convention.

The printed copies provided for in Rule 70 and not reserved for binding shall be disposed of as follows: One copy of each shall be placed upon the file of each member of the Convention and one additional copy shall be delivered or mailed to each member as he shall direct, and two copies of each shall be placed in

the Legislative Library for the use of members of the Convention. One hundred copies shall be reserved for the use of the officers of the Convention, the State Library, the Department of Education, The Legislative Index Publishing Company and the document room reserve. Copies of the Proposed Constitutional Amendments, of the reports and of the Record shall be mailed daily to daily newspapers and weekly to all other newspapers and to each public library of the State, each bar association of the State, each law school of the State, each college and university of the State, and to such other institutions, newspapers and individuals as shall apply therefor and can be supplied from the number printed, not necessary for the current work of the Convention. Two copies of Proposed Constitutional Amendments and two copies of reports for each member of the committees having duty in relation thereto shall be delivered to the clerks of such committees. The balance of printed copies provided for and not reserved for binding shall be distributed in the order of application therefor by the members of the Convention.

The President — Are you ready for the question upon the resolution?

Mr. Brackett — I have no wish to stand here and to either pass upon or make light of any wish of any committee or any arrangement to save expense to the State. I think the Committee has pared down pretty close on the numbers to be printed. I think there would be great good come to the work of the Convention as well as to the future students, by having a pretty liberal number of copies printed and widely distributed. It occurs to me that perhaps the Committee on Rules will have put in time enough on this report which if devoted to some other purpose might save enough money so that we should have more copies printed and I am very sure that when that body took its time to provide that no one should go into the document room it is coming down to pretty small potatoes. My associate on the right supposes the document room from now on is to go uncleaned. I suppose so, because the cleaner was not included in the list of those who were to be permitted to get into the room; or I suppose when the time-lock is set no one can get in there as, indeed, no one has a right to except the superintendent, under the resolution. I have a deal of sympathy with the delegate from Broome county in desiring a more liberal distribution of the documents of the Convention and the Journal. I do believe we receive valuable suggestions therefrom through such distribution. I do know that their preservation and study for future years is going to be valuable for future bodies of this kind, as well as to students of all classes. I shall make no motion on the subject because I suppose the Committee on Rules has given a good deal of attention to

this report, but I do want to call attention to what I have said on the subject, with a view of seeing that we do not, every minute, try to cut off a half-penny when we lose a shilling in value to the State.

Mr. Parsons — Mr. President, this report simply provides for printing which shall be done as of course, and it provides sufficient to satisfy the present demands. Various applications have been tabulated and gone over and it has been found that, according to the applications which we now have, there will be sufficient if these rules are adopted to supply all of the demand. There will come times when it will be desirable to have an additional number of some of the papers presented and then the Convention can at any time pass a special resolution directing an increased number or a special number of any particular report or of the Record or of any Proposed Amendment. But I think that those who will examine the figures will see that they have been very carefully worked out to supply the normal need. Now, all that the rules need cover is the normal need. Anything additional will be covered by special resolution.

Mr. Wiggins — Mr. President, there is one feature of the report which I think the members of the Convention should keep well in mind before adopting this — that particular feature which refers to the binding and distribution to each member of the Convention of two copies only of the Record. That is the report as I recall it. It seems to me that that number is too small. Many requests will be made from members of the Convention for the use of their copy or for the distribution of some copies among those who may be interested, particularly lawyers, in viewing the discussions of this Convention, in the interpretation of some provisions of the Constitution as may be before the court, from time to time. I think that each member should have at least three or four copies of the bound volumes that shall be distributed at the end of the Convention and I should like to ask the chairman of the Committee if he would have any objection to an amendment to provide that four copies be laid aside and distributed to the members of the Convention after its adjournment.

Mr. J. L. O'Brian — Mr. President, this report embodies the best judgment of the members of these three committees; and, in reply to the specific question asked by the gentleman from Orange, Rule No. 71, the new Rule No. 71, provides that after distributing the copies as specified, the remaining copies shall be distributed as designated by the President or the Convention. So that I assume that toward the end of the Convention any modification may be made on this subject at the will of the Convention. That is to say, any modification of the provision for the disposal of the

bound copies, and I think it very much better, personally, that the rule shall be adopted in the form in which it is drawn, than to attempt now to determine the ultimate disposition of the bound copies.

Mr. Wiggins — Mr. President, without meaning to occupy the attention of the Convention unnecessarily, as I recall there was only to be laid aside a sufficient number to provide two copies to each delegate. I listened with much interest to the report made by Mr. Berri a short time ago in which he said that the cost of reproducing an extra number of copies was minimized when the type was all set and the forms were before the printer and it was being run off. I have brought this question up because of the fact that I have had innumerable calls from lawyers and throughout my county asking me for the loan of the Proceedings of the last Convention to which my father had the honor of being a delegate and I have had other calls for it while it was being loaned to some other individual. In view of these facts I have hoped there would be printed and laid aside a sufficient number to provide four for each of the members of the Convention and if there are then any additional copies they may be disposed of as Mr. O'Brian says the resolution provides for; but as I understand the resolution now it only provides that two copies shall be laid aside for the use of the members and then specifies the particular number of copies to be printed, so that as I recall the resolution there will be no copies for the use of the Convention which the President or any other member of the Convention shall ask to be distributed, and it seems to me that now is the time to have these additional copies distributed, when the cost will be minimized and they will then become available when the Convention has adjourned rather than to be reprinted and recopied after we are entirely through; and if this is the proper time — if not I should like to have the President correct me so that I shall make it at the proper time — I would like to propose an amendment that there shall be laid aside and bound, to be distributed at the end of the Convention, four copies of the Record of the proceedings of this Convention.

Mr. Parsons — Mr. President, the provision in the proposed rule lays aside for binding twice as many copies as the old rule provided, as laid aside by the Convention twenty years ago. I think that the demands of the members would be largely relieved through this provision which will take care of all of the libraries in the State, of all of the bar associations and all of the colleges, and a number of other institutions and will leave a considerable number to be disposed of by the Convention. Now it is probable that there will happen after this Convention what happened after

the Convention of twenty years ago, and that is that the Legislature will provide for a revised Record and that Record will be made up and printed in sufficient number to supply any demands that then will appear. But experience shows that the number provided for in this resolution is ample for what now seems to be the demand.

Mr. Green — Mr. President, I would be the last one to think of setting up my judgment against the judgment of three of the committees of this Convention. I am not so much interested in the Record showing the final result of the action of this Convention as I am in getting before our constituents, the voters of the State of New York, the raw material that comes into the hopper here and before our committees and this Convention puts on the finishing touches. We seem to talk here as if the ones interested are only members of the Bar. We hear very little said about the ordinary layman, the common everyday laboring man, the business man. You are sending to your law libraries; you are sending to other public libraries and educational institutions, but you do not mention the chambers of commerce, or the rotary clubs, the business men's associations, the labor organizations, the labor unions — any of which are deserving of just as much attention as these you do mention. Now I know that, in company with my associate delegates from Broome and Delaware counties, we took simply those who had applied to us for copies of such matters as we could send out and then added to that the list of twenty-three newspapers, business organizations, ministers, who had applied, bankers in the two counties who had applied to us in person or by letter and the various literary organizations, individuals, and the lowest we could cut that down to and do anything like justice to the district would require 100 copies of the printed Proposed Amendments. These amendments do not apply simply to a locality, but are State-wide, every one of them. We gentlemen of the Convention were elected by a majority of a mighty small minority of the voters of the State of New York and we are going to appeal to all of the voters of this State to act if they wish to by their ballot upon the product of this Convention, and I would rather hear from that body, the opinions of the bankers, and the business men and professional men and laboring men and the various organizations before we finish our report upon the propositions than at any other time, and I believe that our constituents are entitled to this information on every question or proposition to be expressed here. We will need far more than 100 for each district for three delegates to distribute as they see fit, but if we send them to those public institutions and advise our constituents that we are limited in the number to be sent out but that they can find them at

these business places and newspaper offices and the offices of county boards of supervisors, those who ask us from the thirty-ninth district for these documents, we can sort of "get by" in using our constituents properly and we may get them to think as we do and vote to confirm our action here. But if we are parsimonious, my word for it they are likely to be ungenerous toward our actions when we ask them what they think of it. It would cost just \$6,000 if there were 6,000 Proposed Amendments printed, according to the printing estimate on the volume that has been printed already. The postage would be a mighty small thing because we can use the parcel post if we desire to. I believe it is our duty to begin now to send back to each of our districts at least 100 copies distributed as to delegates and then give to the delegates-at-large at least fifty copies of the Proposed Amendments before they are referred to the committees, or, rather, acted upon by a committee or by this Convention, and I wish to move you, sir, that the report of the Committee be so amended that the 6,000 be printed as per my resolution of yesterday and distributed as the delegates desire.

Mr. Dunmore — I think it is a matter of common knowledge that many members of this Convention think, not that every member thinks, but the majority of them, or know, that a large quantity of public documents published by this State is going into the hands of waste paper and junk dealers every year. Either then they have not been distributed to the proper channels or else more has been printed than there was any demand for. If anybody imagines that our constituents are going to wade through the raw material presented to this Convention with a view to ascertaining how they are — or how they ought to vote upon the adoption or rejection of the Constitution which we propose, they have more confidence as to the interest our constituents will take in the proceedings of this Convention than I have. While I do not wish to restrict in any way the publication of enough copies of our proceedings so that every one who desires to see them may have an opportunity to do so, I do hope that the Convention will not publish so many that they will be for the benefit of the waste paper or junk dealer.

Mr. Burkan — I would like to suggest that copies of these proceedings be sent to the Library of Congress. Provision has been made for every institution in the State, but the United States Library at Washington is entitled to receive a bound copy of the proceedings and I make the suggestion accordingly.

Mr. Leggett — I have every desire, as I believe every member of this Convention has, that every citizen in the State of New York that takes enough interest in the proceedings of this Convention to ask for the raw material which has been spoken of by

the delegate from the Delaware and Broome district should have it, and if he has 100 constituents that have asked for this raw material I am entirely in favor of that number of copies being put at his disposal; but I want to say right here that from my district, as far as I know, there has not been a single request, and from a little consultation with some of my neighbors I find them in substantially the same situation.

Mr. M. Saxe — It occurs to me that most of the requests come to the Committee chairmen. The people read in the newspapers of the reference of proposals to committees. Now, I know from my experience in the Committee on Taxation that we had a good many requests for copies of proposals referred to that Committee, and I think if this might be arranged, and I make this merely by way of suggestion to the Committee on Rules, so as to allow a particular number to the chairmen of committees, and then any requests coming through the delegates can be referred to the chairmen of the respective committees and they can attend to the distribution. That might tend to economy and proper distribution at the same time.

Mr. A. E. Smith — I would like to suggest to the Convention and to the Committee that the question of additional copies of Proposed Amendments to the Constitution be handled by the Convention exactly as copies of bills are handled in the Legislature. Now, it is not proper to make a fixed and hard rule about printing a given number of copies of each resolution. Some resolutions are of greater interest than others; some amendments are in greater demand; greater demand will be made for some Proposed Amendments than will be made for others. In view of the fact that the document room is to be closed up and everybody, except the chief and his assistants let go, it might be well to provide some method of having the House, or the chairman of some committee, acquainted with the fact that the number of copies of a certain given proposal are in such condition that it is time to have some more printed. Now, I am given to understand that resolutions numbered 1 to 63 are all exhausted. We have means of finding that out now by sending the pages and messengers in there, and finding that they can no longer enter the document room. Now, it should be arranged so that the chief of the document department could notify somebody that the demand for resolution or proposition number so and so is sufficiently strong to warrant the ordering of some more of them by special resolution. That is the way it has been done in the Assembly and that has always worked out well.

Mr. Brackett — In the light of the suggestions and the statements, I think the Committee on Rules would be glad to withdraw this resolution from further consideration, but whether that

is done or not, Mr. President, the modest gentleman from Franklin who sits behind me says that he has a request from persons who certainly ought to have consideration for propositions numbered 10, 25, 37 and 71, one of each one, and I, therefore, move as an amendment to this resolution as offered here, that there be printed four different copies, one of each one of these four, in order that the delegate from Franklin can be accommodated.

Mr. Parsons — Mr. President, I raise the point of order on that proposed amendment. I suggest that it is not a proper amendment to this resolution which is before us.

Mr. Brackett — I therefore withdraw it, Mr. President.

Mr. Parsons — Mr. President, that is a proper resolution to vote on after the rules have been amended in this way. What Mr. Smith suggests is just what should be done. When there is need for more then a special resolution ordering the printing of the same should be adopted.

Mr. J. L. O'Brian — This debate seems to have proceeded on the understanding that this is the last word on the subject of printing in this Convention. I, for one, wish it were going to be. Now this report embodies the best opinion of the three committees, and careful computation has been made of printing, all of it, up to date, and of the probable cost of printing for the future. The Secretary of the Convention has been consulted relating to the proceeding taken in the Legislature in the matter of printing, and estimate has been made of the number of libraries, the number of newspapers and also the probable number of requests for literature based on the number of requests that have been received up to this time. Now, taking all of these factors into consideration, this proposed rule is the result. If at any time, this proposed rule—by the way, this rule provides that after the stated number of documents are sent to the specified associations and individuals, the Secretary shall send to such other institutions, newspapers and individuals, as shall apply therefor, other copies so far as the number available will go. Now, the sensible thing to do, in my opinion, is to adopt this rule. Then if the Secretary finds that he has more requests from the members and from individuals and from organizations than he can satisfy, it will be his duty to report that fact to the Constitutional Convention, and we will make additional and suitable provisions. But, as Mr. Smith pointed out, if there is one resolution or Proposed Amendment which is more in demand than others, then this Convention by merely adopting a resolution will order two or three thousand extra printed at any time. Now, this is not a parsimonious matter. This report is not founded on any false idea of economy. It is founded on what the members of the

three committees believed to be common sense; it is an estimate reached by the most business-like process that we could employ; and I, for one, trust that the amendment proposed by the gentleman from Binghamton will not be accepted at this time. These rules may be modified at any time. All of us agree that it is necessary above everything else that wide publicity be given to the proceedings of this Convention, and if the provision made here is not ample, we will soon know that fact and we can very readily make adequate provision for remedying the existing defect. I call for the question on the amendment of the gentleman from Binghamton.

Mr. Green — Before taking that move, I simply wish to make this observation, that the delegates were told, as were the delegates from the thirty-ninth, to submit their requests to the Secretary, and as soon as we put in our requests for a hundred copies, it was sent to the document room and again returned with orders not to fill it, and it was returned to me, and I have the paper right here. On at least two or three separate occasions, by the Record, we were asked, all the delegates were asked, to prepare a list of those from whom he had received a request and those we wished to have the documents sent to, and we acted thereon. As I say, it found its way to the document room and the superintendent says it was returned by order of the Convention and it could not be filled. Hence, the names are back in our hands, and if the Committee bases its report or resolution on something now before the Secretary, there is at least 100 shy from our district. But, Mr. President, I have no idea of becoming a common disturber here. I am deadly in earnest, so far as our district is concerned, that we should get the hundred copies, and if you do not think our constituents are worthy of the small expense of printing and distribution, why, save the money and expense to the Convention. I just wish to make that statement and in view of the circumstances and the explanations made by the chairman, I am quite willing to withdraw the resolution or amendment that I proposed.

Mr. J. L. O'Brian — Mr. President, may I venture to suggest as an explanation of the situation disclosed by the distinguished member who has just spoken, that the probable reason why his list was "shy" now, was because we were running along under the old rules and only 500 available? This rule would increase that to approximately 2,500, and I now call for the question on the adoption of the joint report of the three committees which the Secretary has read.

Mr. Wiggins — Mr. President, I made an amendment to that portion of the report and, if necessary, I will offer it again, that in that portion of the report relating to the number of copies

which shall be laid aside and printed for the use of the members of this Convention at the close of the Convention the number shall be changed from two to four.

The President — Mr. Wiggins moves to amend the resolution in that part relating to the number of copies of the Record to be laid aside, folded and bound for the members of the Convention, to read that two more copies be furnished. The question comes upon that amendment.

Mr. J. L. O'Brian — Mr. President, those of you who are familiar with the proceedings of the last Convention will recall that after the Convention was over a revised Record was compiled of all of the proceedings of the Convention in which a great amount of what my friends have humorously called "raw material," from which a great amount of that stuff was eliminated. For example, these rules are adopted once and they are amended three or four times. The set of rules which will be important to posterity, if rules are important to posterity, will be the final set, and so with a great deal of the matter which is being brought before this Convention, so far as the permanent copies are concerned, it will be the final, permanent copy which will be valuable. Now the committees were of the opinion that it was sufficient to lay aside enough to guarantee to each member two copies, and this rule contemplates that there will be a great number of printed copies to be bound which shall be distributed as designated by the President or the Convention, and I simply renew the suggestion that I made at the outset and that is that the matter of final disposition of bound copies can very well be disposed of later on in the work of this Convention and, personally, I object to the amendment for that reason.

Mr. Wiggins — Mr. President, may I just say a word, and then I am through because I realize that this should not be unnecessarily long-drawn out: If they are to be bound and laid aside, my rule simply provides that before they are exhausted four copies be laid aside for the use of the members. Simply to provide now for the delivery at the end of this Convention of four of these copies which the gentleman states will be laid aside for some distribution.

The President — The question is upon the amendment proposed to change the number to four. All in favor will say Aye, contrary No.

The Chair is in doubt and will put the question again.

All in favor will signify by saying Aye, contrary No.

The Chair is still in doubt. A count is called for. All in favor of the amendment will signify by rising and standing in their places until counted.

The President — Those opposed to the amendment will rise and remain standing in their places until counted.

The President — The amendment is evidently lost.

All in favor of the resolution as reported by the joint committees will say Aye, contrary No. The resolution is agreed to.

Mr. J. L. O'Brian — Mr. President, I offer the following report from the Committee on Rules.

The Secretary — The Committee on Rules recommends the adoption of the following resolution: Resolved, That the chairmen of the committees be requested to instruct their clerks to cause as early notice as practicable of hearings and meetings to be filed with the Secretary of the Convention, and that the Secretary cause a consolidated calendar of such hearings and meetings to be posted and kept posted on the bulletin board, showing the day and hour and place and, in the case of hearings, the subject thereof.

Mr. J. L. O'Brian — I move the adoption of that resolution.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. J. L. O'Brian — Mr. President, for the Committee on Rules, I offer the following.

The Secretary — The Committee on Rules, to which was referred the resolution offered by Mr. M. Saxe on April 7, 1915, respectfully reports as a substitute therefor the following resolution and recommends its adoption:

Whereas, On the 15th day of June next occurs the seven hundredth anniversary of the adoption of the Great Charter of English liberty;

Resolved, That this Convention commemorate said event on that day by appropriate exercises, and

Resolved, That the President be and he is hereby authorized to appoint a committee to make the necessary arrangements therefor, with authority of the committee to use the Convention chamber for that purpose at a time when the Convention shall not be in session.

Mr. M. Saxe — Mr. President, the substitute is entirely agreeable to me. I merely want to say, in calling the attention of the Convention to the resolution, that not alone is it highly important that this body should commemorate by appropriate exercises the seven hundredth anniversary of Magna Charta but that we ought to try to do something to call the attention of the people of the State to the work of this Convention. Now these exercises, if they are held, by addresses of distinguished men, will attract attention. It is very important, I think, in view of the large foreign-born population in this State, to drive home to the people

of the State some of our traditions. There are a great many people who are going to vote upon our proposed Constitution that hardly realize that a new Constitution is in the making, and much less do those same people know of the traditions lying back of some of the fundamental principles so sacred to us embodied in our present Constitution and which will undoubtedly be carried on in the proposed Constitution. So I think that we can render a service to the people of the State by holding these exercises on June 15th.

Mr. Schurman — Mr. President, I notice that the report refers it to the President of the Convention to name the committee to take charge of these exercises. I should like to make one suggestion in connection with that report. We have in the President of the Convention himself a gentleman who in virtue of his standing in the law and the great distinction he has won in public life, is, in my judgment, and I think I am expressing the judgment of this Convention, better qualified to give the address on that occasion than any other citizen of the United States. If this report be adopted it would seem to make it impossible for the President of the Convention to be designated to discharge this function and, on that account, and on no other, I hesitate to commit myself to voting upon the report.

Mr. Clearwater — I regard this as a most admirable suggestion. We have enjoyed liberty so long in this country that we have forgotten what oppression is, as many of the Proposed Amendments to our present Constitution indicate, and if this celebration, or observation, or commemoration be had, it should be had upon a scale commensurate with the dignity of this imperial State and with the work and dignity and solemnity of this Convention. With the President of the Convention in the chair and addressing him from the floor, it may seem fulsome to say, but it is quite true, that in this republic there is no greater, more distinguished, more thoughtful advocate of representative government and of representative institutions than the President of this Constitutional Convention. And whether it be in order or not, with the President in the chair, I want now to move that the Convention invite its President to deliver the address upon the occasion of the celebration of the anniversary of Magna Charta.

The President — The question before the Convention is the resolution for the appointment of a committee. Any amendments to that resolution would be in order, but a separate and independent resolution is not in order until after the pending resolution is disposed of.

Mr. Schurman — Then, Mr. President, I move that the report be referred back to the Committee for further consideration and report.

The President — It is moved that the report of the Committee on Rules be recommitted to that Committee for further consideration and report. All in favor of the motion will say Aye, contrary No. The motion to recommit is carried.

Are there any further reports of standing committees?

Reports of select committees?

Third reading of amendments.

Unfinished business in general orders.

Special orders.

The President — The Secretary will name such announcements as are necessary.

Mr. J. L. O'Brian — Mr. President, I offer the following report from the Committee on Rules

The Secretary — By Mr. J. L. O'Brian: Whereas, On the 15th day of June next occurs the Seven Hundredth anniversary of the adoption of the Great Charter of English liberty.

Resolved, That this Convention commemorate said event on that day by appropriate exercises and that the President be, and he hereby is, authorized to appoint a committee to make the necessary arrangements therefor, with authority to the Committee to use the Convention chamber for that purpose at a time when the Convention shall not be in session.

Resolved, That the President of the Convention be invited to address the Convention on that occasion.

Mr. J. L. O'Brian — Mr. President, I move the adoption of that resolution.

The President — The President is bound to put the question, but begs to suggest that it might expedite the business of arranging for this celebration if the matter were left in such shape that there might be an opportunity for the President to decline, as probably it really would not be practicable for the President to do justice to the occasion in the preparation of an address. That duty can better be performed by some one of the distinguished men in whom the State abounds and the President feels as if he ought not to be called upon to add to the duties he is obliged to perform by being asked to prepare for this additional task.

Mr. Schurman — Mr. President, I think the feeling of the Convention would be that the exercises would be entirely incomplete without an address on that occasion from the distinguished President of this Convention. The delegates realize, however, that their President is overburdened with duties and they would certainly leave it to him to determine the length of the address which he should deliver and with the aid of the committee that is to be appointed by him secure the co-operation which he might desire on the part of other speakers; therefore, if the President

does not object, I shall ask the privilege of being allowed to put the motion.

Mr. Schurman—As many as are in favor of the adoption of the report say Aye, opposed No.

Mr. President, the report is unanimously adopted.

Mr. J. L. O'Brian—Mr. President, if there is no further business I move that the Convention do now adjourn.

The President—It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is carried and the Convention stands adjourned until 10 o'clock Thursday morning.

Whereupon, at 11:15 a. m., the Convention adjourned to meet at 10 a. m., Thursday, May 20, 1915.

THURSDAY, MAY 20, 1915

The President—The Convention will please come to order. Prayer will be offered by the Rev. Wm. F. O'Connor.

Rev. Wm. F. O'Connor—In the Name of the Father and of the Son and the Holy Ghost, Amen. Let us pray. O God, assist with Thy Holy Spirit of counsel and fortitude the President of these United States who has thus far guided wisely and safely our peace and happiness. Give him strength in the future to continue this wonderful wisdom for the welfare of a loyal and grateful people. Grant, O Lord, that under his guidance this flag of ours, the Stars and Stripes, whose folds of white signify purity, whose folds of red personify brotherly love, which comes from Thee, O Lord, and whose bright stars of blue signify that peace which points as so many lights toward the eternal peace. May this peace continue under Him so that we as the followers of this great representative of our Nation may enjoy continual happiness, peace and concord. Grant, O Lord, that His Excellency, the Governor of this State, may be blessed, and that he may do everything in his power to encourage and aid our worthy President. Assist, O God, by Thy Divine wisdom, those who are in this Convention, that their deliberations may be worthy of members of this State, and that they may hand down to us laws for our rule and government which may perpetuate peace, may promote happiness, and may give to us continual joy. I beseech Thee, also, O God, in behalf of our fellow citizens, that they may enjoy the benefits of Thy laws and may be sanctified by the observations thereof, and may continue in union and peace, and after enjoying the blessing and the fruits of this world may enter into the next to enjoy life everlasting, Amen. In the Name of the Father and of the Son and of the Holy Ghost.

The President — Are there any amendments to the Journal of the legislative day before yesterday as printed and distributed? There being no amendments, the Journal is approved as printed.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Marshall — Mr. President, I offer the following resolution.

The Secretary — Resolved, That the Governor is respectfully requested, if in his judgment it shall seem proper, to cause a report to be prepared by such agency as he may select and to transmit the same to the Convention at his earliest convenience, with respect to the following matters:

First. The number of prisoners confined in the several State prisons, reformatories and penitentiaries of the State on January 1, 1915.

Second. The number of applications for pardon and commutation of sentence, respectively, filed in the Executive Department during each of the years from 1900 to 1915.

Third. The number of pardons and commutations of sentence, respectively, granted or refused in each of the said years.

Fourth. The number of applications for pardons and commutations of sentence, respectively, pending and undetermined in the Executive Department on January 1, 1915.

Fifth. The number of applications for pardon and commutation of sentence, respectively, filed in the Executive Department since January 1, 1915.

Sixth. The number of applications for pardon and commutation of sentence, respectively, disposed of and the disposition made of them since January 1, 1915.

The President — Referred to the Committee on Library and Information.

Mr. Quigg — I offer the following resolution.

The Secretary — By Mr. Quigg: Resolved (1), That the Legislature should be composed, as at present, of two Houses.

Resolved (2), That it is undesirable that the membership of either House should be increased.

Resolved (3), That the holding of annual sessions is expedient.

The President — Wouldn't that go to the Committee on Legislative Organization?

Mr. Quigg — Yes, sir. I offer it, Mr. President, only in view of the fact that the Committee may make a statement to the House on that subject, and, if it does, I don't want it amenable to the rule, to be sent back to the Committee, but that it may be in the nature of a report.

The President — That resolution will be referred to the Committee on Legislative Organization.

Mr. Rodenbeck—Mr. President, I offer the following resolution.

The Secretary — By Mr. Rodenbeck: Whereas, The Constitution in its present form is wholly lacking in any uniformity in capitalization, the same words appearing sometimes in the same section capitalized and uncapitalized, and it is important that this fundamental document should be as perfect grammatically as it is possible to make it,

Resolved, That in the revision and engrossment of the Constitution, the Committee on Revision and Engrossment be authorized and directed to adopt a uniform system of capitalization and apply the same without indicating the changes made, not only to amendments proposed to the Constitution, but to sections and parts of sections to which no amendments are proposed, so that the entire Constitution may be uniform in this respect.

The President — Does Mr. Rodenbeck wish immediate consideration of this resolution?

Mr. Rodenbeck — No. I intended to have it referred. It might be adopted at this time; it is such a formal matter. I will ask for unanimous consent that the resolution be considered, and for action at this time.

The President — Is there any objection to immediate consideration of the resolution?

Mr. Leggett — Mr. President, I object.

The President — The resolution will stand over for one day under the rule.

Mr. Quigg — Will it go to the Committee on Rules, Mr. President?

The President — It does not belong under the Rules. It is a direction regarding the matter of revision and engrossment, and appears to be a suggestion rather than a rule.

Mr. Quigg — Mr. President, I think that ought to go to the Committee on Rules. We — The Committee on Revision — are simply instruments in the matter. If that is what the Committee on Rules wants done, and the Convention wants it, it seems to me, that the Committee on Revision is simply an instrument.

The President — Of course, the Convention can send this resolution to any committee which it sees fit to, but the Chair does not think it is any part of the business of the Committee on Rules. It is simply directions regarding the grammatical or typographical arrangement of the document.

Mr. Quigg — I point out to the Chair that if this resolution is adopted, it will forbid the Convention to submit the Constitution to the people by sections. As I read the present Constitution, it is an open question whether it is intended that the work of

this Convention should be submitted to the people as an entirety or by sections. Now, if this proposition is adopted, it will prevent any submission to the people by sections showing the particular changes, so that anybody who is prejudiced against a particular amendment may vote against the Constitution as a whole. For that reason, I think it ought to go before the Committee on Rules, in order that there may be by the Convention some decision as to how the Constitution shall be submitted, whether by sections or in its entirety.

The President — This resolution having given rise to debate, under the rule it must stand over until the next legislative day.

The Clerk will proceed with the call.

The Secretary — By Mr. Curran: Whereas, It is not only desirable that the State should be advised of the Proposed Amendments to the Constitution but that this Convention should be informed of any suggestions that any citizen of the State desires to present to the Convention for its consideration,

Resolved, That the heads of the various departments and branches of the State government and of the political subdivisions thereof and all other public officers and the heads of educational and judicial institutions, labor and industrial organizations and the public generally be invited to present through their respective representatives in this Convention suggestions and Proposed Amendments to the Constitution in some proper manner to be determined by the Committee on Rules.

The President — What is the pleasure of the Convention with respect to this resolution?

Mr. Sheehan — Mr. President, I ask that it stand over.

The President — The resolution will stand over in accordance with the rule.

The President — Propositions for Constitutional Amendment. The Secretary will call the roll of districts.

Mr. Coles — I offer the following.

The Secretary — By Mr. Coles: Proposed Constitutional Amendment.

Second reading — To amend Section 17 of Article VI of the Constitution, by providing that the Legislature may prescribe qualifications for justices of the peace.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Weed, by request: Proposed Constitutional Amendment.

Second reading — To amend Article I, Section 6, providing for compensation for private property injured by public use.

The President — Committee on Bill of Rights.

Mr. Reeves — I present this Proposed Amendment, by request.

The Secretary — By Mr. Reeves, by request: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution, relating to the judiciary, generally.

The President — Referred to the Committee on Judiciary.

The Secretary — By Mr. Heyman: Proposed Constitutional Amendment.

Second reading — To amend Section 9, Article V, of the Constitution, in relation to removals.

The President — Referred to the Committee on Civil Service.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article VII, relative to a direct tax for the maintenance and conduct of the State government.

The President — Referred to the Committee on Taxation.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 9, Article V, relative to fixed compensations of public officials within the civil service.

The President — Will you make any suggestions as to the reference of this? The Chair is inclined to think that it should go to the Committee on Civil Service.

Mr. Mann — I consent to that.

The President — The Committee on Civil Service.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 20 of Article III, relative to legislative appropriations of public funds for private or local purposes.

The President — Referred to the Committee on State Finance.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 6, Article I, relative to indictments and hearings, and relative to the failure of defendants to testify.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I, relative to the waiver of a trial by jury and the number of jurors to determine a verdict.

The President — Referred to the Committee on Bill of Rights, with a copy to the Committee on Judiciary with the customary request.

Mr. Marshall — Mr. President, I offer the following amendment and I suggest it be referred to the Committee on Prisons and Prevention and Punishment of Crime if the President thinks best.

The Secretary — By Mr. Marshall: Proposed Constitutional Amendment.

Second reading — To repeal Section 5 of Article IV of the Constitution, relating to the pardoning power of the Governor, and to amend Sections 11 and 12 of Article VIII of the Constitution so as to provide for the creation of a State Board of Pardons and the transfer to it of the pardoning power now vested in the Governor.

The President — Referred to the Committee on Prisons and Prevention and Punishment of Crime.

Mr. Parsons — Mr. President, I submit the following Proposed Amendment, and ask that it be referred to the Committee on Industrial Relations.

The Secretary — By Mr. Parsons, by request: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, in relation to establishing the Industrial Board and prescribing its powers and duties.

The President — Referred to the Committee on Industrial Relations.

The Secretary — By Mr. Donovan: Proposed Constitutional Amendment.

Second reading — To amend Article II of the Constitution, in relation to compulsory registration and voting.

The President — Referred to the Committee on Suffrage.

Mr. Vanderlyn — Mr. President, I offer the following.

The Secretary — By Mr. Vanderlyn: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article XII of the Constitution, in relation to the funded debt of municipalities.

The President — County, Town and Village Government? Referred to the Committee on County, Town and Village Government.

Mr. Ostrander — Mr. President, I offer the following.

The Secretary — By Mr. Ostrander: Proposed Constitutional Amendment.

Second reading — To amend Section 20 of Article VI of the Constitution, in relation to fees of judicial officers.

The President — Referred to the Committee on Judiciary.

Mr. Fobes — Mr. President, I offer the following.

The Secretary — By Mr. Fobes: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article VI of the Constitution, with relation to the continuance of the Court of Appeals and the salaries of judges thereof.

The President — Committee on Judiciary.

Mr. R. B. Smith — Mr. President, I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 17, of the Constitution, in relation to reference in a bill to existing law.

The President — Committee on Legislative Powers.

Mr. Schurman — Mr. President, I submit the following.

The Secretary — By Mr. Schurman: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to the composition of the Senate and the terms of its members, and Section 1 of Article XIV, in relation to constitutional amendment.

Mr. Schurman — Mr. President, the second part of that Proposed Amendment is a corollary of the first. If the first be not adopted, the second falls to the ground as a matter of course. The first refers to the Senate and is a proposal to reduce the number of members to twenty-four and to make one-fourth of the Senators at large to be elected by the electors of the whole State. I suggest, therefore, that the proper committee is the Committee on Legislative Organization.

The President — The first part plainly goes to that Committee. The Chair was in doubt about the second part, which seems to relate to future amendments to the Constitution, which would seem to go to the Committee on Future Amendments.

Mr. Schurman — The second part makes a change, which would be necessary in the Constitution, if the first part be adopted.

The President — Then, perhaps, the suitable disposition would be to refer it to the Committee on Organization and a copy to the Committee on Future Amendments, with authority to report its opinion as it may deem wise, and that disposition will be made of it.

Mr. Rodenbeck — I offer the following amendments.

The Secretary — By Mr. Rodenbeck: Proposed Constitutional Amendment.

Second reading — To amend Section 21 of Article VI of the Constitution, in relation to the publication of rules of courts and requiring the Legislature to provide for a reclassification and arrangement of the law, with a view to facilitating the examination of the statutes and judicial decisions.

The President—Committee on Judiciary. That might go to the Committee on Legislative Powers or to the Committee on Judiciary. The Chair is inclined to think that it should go to the latter. Referred to the Committee on Judiciary.

The Secretary — By Mr. Rodenbeck: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article I of the Constitution, in relation to authorizing the Legislature to provide for a trial without a jury of certain actions now triable by a jury.

The President — To Committee on Bill of Rights, with a copy to the Judiciary Committee with the customary advice.

Mr. Lindsay — Mr. President, I offer the following.

The Secretary — By Mr. Lindsay: Proposed Constitutional Amendment.

Second reading — To amend Article I, Section 15, of the Constitution of the State of New York, in relation to courts for Indians.

The President — Committee on Relations to Indians.

Mr. J. L. O'Brian — Mr. President, I offer the following Proposed Constitutional Amendment.

The Secretary — By Mr. J. L. O'Brian: Proposed Constitutional Amendment.

Second reading — To amend the Constitution, by inserting a new Article XII in place of the old Article XII of the Constitution, in order to regulate legislation concerning cities and villages and to guarantee unto them the right of municipal self-government.

The President — Committee on Cities.

Mr. Parsons — Mr. President, I have a request to make about Proposed Amendment No. 249, introduced yesterday by Mr. Berri. I ask that so much of it as refers to the Commissioner of Labor be referred to the Committee on Industrial Relations for its information and for an expression of opinion thereon if it so desires.

The President — Is there any objection to that course being followed? Without objection, a copy of the Proposed Amendment, No. 249, will be sent to the Committee on Industrial Relations, with authority to report such opinion as it may deem wise relative to the part relating to the Commissioner of Labor.

Mr. Low — Mr. President, I have the same request to make in regard to Proposed Amendment, No. 146, amendment introduced by Mr. M. Saxe; it refers, in part, to city officers, and it was referred to the Committee on County, Town and Village Officers. I would ask that it might be referred for information

— that a copy of it be sent to the Committee on Cities, for information, with the privilege of expressing its opinion if it may deem wise.

The President — Is there any objection to that order being made? Without objection, a copy of the Proposed Amendment, No. 146, will be sent to the Committee on Cities, with authority to express its opinion as it may deem wise.

Mr. Unger — Mr. President, may I ask that my Proposed Amendment, No. 102, be changed to read by request? It was a proposition about which I have no particular view, and I don't want it to appear on record as if it were my own proposal.

The President — A note will be made in the Record of to-day to that effect.

Reports of standing committees.

Mr. J. L. O'Brian — The Committee on Rules submits the following supplemental report, and I move the adoption of the resolution therein embodied.

The Secretary — Mr. J. L. O'Brian, from the Committee on Rules, as a supplemental report, recommends the adoption of the following: Resolved, That Vivany Moore be employed by this Convention as a messenger for Vice-President O'Brien, at a compensation of \$3 per day.

Resolved, That the Secretary be instructed to notify forthwith the Superintendent of Public Buildings that this Convention requires the offices of the Clerk of the Senate and the financial clerk of the Senate for the use of Vice-President O'Brien.

The President — All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Mr. S. K. Phillips — Mr. President, as requested, and after conferences with various members and various committees of the Convention, and after study and investigation, the Committee on Contingent Expenses has prepared a statement showing the estimated expenses of the Convention as indicated by action to date, and I am able to present the following at this time.

The President — The chairman of the Committee on Contingent Expenses presents a report which the Secretary will read.

The Secretary — By Mr. S. K. Phillips: The Committee on Contingent Expenses submits for the information of the delegates the following statement containing an estimate of the expenses of the Convention as indicated by action taken prior to and including this date:

Salaries of delegates.....	\$252,000 00
Estimated mileage.....	5,040 00
Salaries of officers.....	85,339 00
Printing, estimated.....	50,000 00

Official stenographer, assistants, etc., estimated....	\$10,000 00
Drinking water.....	416 50
Postage and express, estimated.....	8,500 00
Stationery supplies, incurred.....	8,170 49
Stationery supplies, to be incurred.....	10,000 00
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Total	\$429,465 99
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Signed by the Committee.

Reports of select committees.

Third reading.

Unfinished business on general orders.

Special orders.

General orders.

The President — The Secretary will make announcements.

Mr. M. J. O'Brien — Mr. President, I have here a report from the Constitutional Convention Commission. The delegates from time to time have obtained certain information which, under the authority given to that Commission, has been gathered. We have now a complete report. Most of these publications are going through the press and will be in the hands of the delegates, I hope, by next Tuesday, when we reassemble. We have here in this report a statement that may be of interest to all of the delegates of the field which has been covered by the work of the Commission, and it seemed to me that it should be in the hands of the delegates. It would be too long to read. It would not be long if it were printed as a document, and I was going to ask unanimous consent that it should be printed as a document so that every delegate may know where to get the information and what data and information are covered by the publication and I ask, therefore, that I be permitted to submit this report and have it printed as a document.

The President — Unanimous consent is asked that the report of the Commission be received and printed as a document. Is there any objection? The Chair hears none and it is so ordered. The Chair wishes to present an urgent request by the stenographer to the delegates that resolutions which are offered be presented in duplicate. The stenographer has great difficulty in making up his minutes because he cannot get possession of the papers to complete his record and he would be very grateful if duplicates would be presented. The rule requires it and the stenographer is entitled to have the resolutions presented in duplicate. Is there any further business?

Mr. Quigg — Mr. President, I ask to be excused from to-morrow's session on account of a very important engagement.

The President — Mr. Quigg asks to be excused from to-morrow's session on account of a very important engagement. Without objection the excuse will be granted.

Mr. Landreth — Mr. President, I ask to be excused from to-morrow's session on account of inability to be present.

The President — Mr. Landreth asks to be excused from to-morrow's session. Without objection the excuse is granted.

Mr. Wood — Mr. President, I ask to be excused from to-morrow's session.

The President — Mr. Wood asks to be excused from attendance at to-morrow's session. Without objection the excuse is granted.

Mr. Bunce — Mr. President, I rise to ask for information from the Printing Committee. Rule 71 provides that each member of this Convention is entitled to two copies of the Proposed Amendments after they are printed. I have, within ten minutes, sent to the document room for copies of yesterday's amendments and I did not get them, and I would like to inquire why we cannot have them as provided for by the rule.

Mr. Berri — Mr. President, my belief is that they have not arrived, but they will be here at 11 o'clock.

Mr. R. B. Smith — Mr. President, in answer to the question by Delegate Bunce, let me suggest, or I will state, that the first shipment of bills or Proposed Amendments is only sufficient to put on the members' files. There will be another delivery later.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is carried and the Convention stands adjourned until 10 o'clock Friday morning.

Whereupon, at 10:50 a. m., the Convention adjourned to meet at 10 a. m., Friday, May 21, 1915.

FRIDAY, MAY 21, 1915

The President — The Convention will please come to order. Prayer will be offered by the Rev. Roelif H. Brooks.

The Rev. Roelif H. Brooks — Let us pray. Direct, O Lord, this Constitutional Convention with Thy gracious love and favor, and further it with Thy continual help, that all its deliberations may be begun, continued and ended in Thee, to the glory of Thy Great Name, and the benefit of the State. Through Jesus Christ, our Lord.

The President — Are there any amendments to the Record of Wednesday as printed and distributed? If there are no amendments the Record stands as printed and distributed.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Haffen — Mr. President, I offer the following.

The Secretary — By Mr. Haffen: Resolved, That the Committee on the Legislature, Its Organization, etc., be hereby directed to study and examine the subjoined comparative table of Assembly district apportionments before taking final action on the question of reporting Proposal No. 174, heretofore referred to such Committee.

Mr. Haffen — Mr. President, I ask that that may be referred to that Committee.

The President — If there is no objection it will be referred to the Committee on Legislative Organization.

The President — Proposed Constitutional Amendments. The Secretary will call the roll of districts.

Mr. Adams — Mr. President, I offer the following.

The Secretary — By Mr. Adams: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article V of the Constitution, in relation to the employees in the civil service of the State.

The President — Referred to the Committee on Civil Service.

Mr. Meigs — Mr. President, I offer the following, by request of Mr. Mann.

The Secretary — By Mr. Mann: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I, relative to restrictions to be placed upon the use of lands in cities.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Mann: Proposed Amendment to the Constitution.

Second reading — To amend Section 24 of Article III, relative to the imposition of taxes and enforcement of penalties.

The President — Committee on Taxation.

The Secretary — By Mr. Mann: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V, relative to civil service employees.

The President — Committee on Civil Service.

The Secretary — By Mr. Mann: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article II, relative to absent electors.

The President — Committee on Suffrage.

Mr. Parsons — I offer the following Proposed Amendment.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Sections 1, 4 and 6 of Article II of the Constitution, on the following subjects: Providing that voters may only vote where they have their domicile;

Providing that registration shall take place 150 days before election, and eliminating the requirement of bipartisan boards of registration.

The President — Committee on Suffrage.

Mr. Meigs — Mr. President, I offer the following.

The Secretary — By Mr. Meigs: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article II of the Constitution, in relation to the qualifications of electors.

The President — Committee on Suffrage.

Mr. R. B. Smith — I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 27, in relation to the delegation by the Legislature to boards of supervisors of local legislative powers.

The President — Committee on County, Town and Village Government.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 28, in relation to the granting of extra compensation by the Legislature and other legislative bodies.

The President — Committee on Legislative Powers.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 10, of the Constitution, in relation to the powers of each House of the Legislature.

The President — Committee on Legislative Powers, unless some other suggestion is made.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III, Section 1, and Article IV, Section 4, of the Constitution, in relation to extraordinary sessions of the Legislature and the Assembly.

The President — Committee on Legislative Powers.

Mr. Tanner — Mr. President, I suggest that that be sent to the Committee on the Governor and Other State Officers.

The President — The Chair hesitated a moment as to which committee it should go. It might go to either. Has the introducer any suggestions to make as to that?

Mr. R. B. Smith — Mr. President, that simply provides the power of the Legislature to convene itself, and the amendment to the section relating to the power of the Governor is only incidental to the main purpose.

Mr. Tanner — Mr. President, then I ask it be referred to the Committee on the Governor and Other State Officers, for its information.

The President — Without objection the reference will be to the Committee on Legislative Powers, a copy to the Committee on the Governor and Other State Officers with the customary authority to express an opinion.

Mr. Leggett — I offer the following.

The Secretary — By Mr. Leggett: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article I of the Constitution, relating to trial by jury.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Leggett: Proposed Constitutional Amendment.

Second reading — To amend Article IV of the Constitution, by inserting an additional section relating to appointments by the Governor.

The President — Referred to Committee on the Governor and Other State Officers.

Mr. Tuck — Mr. President, I offer the following.

The Secretary — By Mr. Tuck: Proposed Amendment to the Constitution.

Second reading — To amend Section 6, Article III, of the Constitution, by increasing salaries of members of the Legislature and providing for the payment of expenses for transportation.

The President — Referred to the Committee on Legislative Organization.

Mr. Low — Mr. President, I noticed one amendment suggested by Mr. Mann which referred to private property in cities, which you sent to the Committee on Bill of Rights. May I ask that it be referred also to the Cities Committee for information?

The President — Without objection that order will be made and the amendment will be sent also to the Committee on Cities for information with authority to express their opinion thereon.

The President — Reports of standing committees.

Mr. Wickersham — Mr. President, I present the following report from the Committee on Library and Information and move its adoption.

The Secretary — The Committee on Library and Information, to which was referred the resolution relative to obtaining certain information from the Secretary of State as to the number of electors who voted at any election at which any Constitutional Amendment or Amendments was submitted to the people, introduced by Mr. Dunmore, May 11, 1915, reports that the information requested by the resolution is to be found in the Legislative Manual for 1915, at pages 214 to 219, inclusive, and, therefore, in the opinion of the Committee the resolution is unnecessary.

(Signed) JESSE S. PHILLIPS, Chairman.

The President — Are there any remarks to be made upon this report? All in favor of the adoption of this report will say Aye, contrary No. The report is agreed to.

Mr. Wickersham — Mr. President, I present the following report for the Committee on Library and Information.

The Secretary — The Committee on Library and Information, to which was referred the resolution relative to obtaining certain information from the Comptroller as to the cost of the legislative branch of the government, from the year 1901 to the year 1915, introduced by Mr. McKinney, May 7, 1915, reports that it has considered said resolution, and the said Committee reports that the information requested by the resolution is to be found in the annual report of the Comptroller for the year 1915 and preceding years, published by authority, to which reference should be made, and, therefore, in its opinion the resolution is unnecessary.

(Signed) JESSE S. PHILLIPS, Chairman.

Mr. Wickersham — I move its adoption, Mr. President.

The President — Are you ready for the question on the adoption of the report? All in favor of the motion to adopt the report will say Aye, contrary No. The motion is agreed to and the report is adopted.

Mr. Wickersham — Mr. President, on behalf of the Committee on Library and Information, I also submit the following report and move its adoption.

The Secretary — Mr. J. S. Phillips, for the Committee on Library and Information, to which was referred a resolution introduced by Mr. Marshall on May 20, 1915, relative to obtaining certain information from the Executive Department as to the number of pardons and commutations, etc., reports in favor of the adoption of said resolution.

The President — The question is upon the adoption of the resolution. All in favor of the adoption of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Wickersham — Mr. President, on behalf of the Committee on Library and Information, I submit the following report and move its adoption.

The Secretary — Mr. J. S. Phillips, for the Committee on Library and Information, to which was referred the resolution relative to obtaining certain information from the Attorney-General, introduced by Mr. Cobb, May 13, 1915; and the resolution referring to the same subject, introduced by Mr. Ostrander, May 18, 1915, reports that it has considered both said resolutions, and said Committee reports in favor of the adoption of the following resolution in place of the resolutions above mentioned:

Resolved, That the Attorney-General be requested to furnish to this Convention, with all convenient speed, the following information relative to matters pending before the Court of Claims:

First. The number of claims pending, classified by the years in which the claims were filed.

Second. The amount involved in the claims so filed, also classified by years.

Third. The number of claims adjusted without recourse to the Court of Claims or Board of Claims in each year of the last five years.

Fourth. The total amount paid by the State in satisfaction of claims in each year of the last five years.

Fifth. The geographical distribution of pending claims, stated by counties.

Sixth. A classification of pending claims by number and amount involved, showing:

a. Claims arising from appropriations made by the State in the course of the Barge canal improvement.

b. Cases on contract growing out of the Barge canal improvement.

Further resolved, That the clerk of the Court of Claims and the Comptroller be and are hereby requested to transmit to this Convention, with all convenient speed, the following information relating to the Court of Claims and the Board of Claims and to matters pending and disposed of therein, during each of the ten years last past, so far as such information shall be of record in their respective offices, viz.:

First. The amount of salaries, fees, expenses and disbursements paid to all judges, attendants, clerks, stenographers and other employees, witnesses, counsel and agents.

Second. The number of days of actual sittings of such Court or Board in each year.

Third. The number of cases disposed of in each year and the aggregate of awards made in each year.

Fourth. The number of cases disposed of in each year in which the award was \$500 or less and \$200 or less, respectively, and the aggregate of such awards in each year.

Fifth. The number of times the name of such Court or Board has been changed during said year, and the alleged reasons for such changes.

Further resolved, That the Superintendent of Public Works, the State Engineer and Surveyor and the Attorney-General transmit to the Convention, at their earliest convenience, the following information relating to matters pending and disposed of during each of the ten years last past, before the Courts of Claims and the Boards of Claims, so far as such information shall be of record in their respective offices, viz.:

First. The amounts paid in each year to officers, employees, agents, investigators and representatives of such departments, respectively, for services, fees, expenses and disbursements in relation to matters before said Courts or Boards.

Second. The amounts paid or incurred for services, fees and expenses of witnesses, consulting experts, special counsel and otherwise in relation to matters before said Courts or Boards.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is adopted.

Are there any further reports from standing committees?

Reports from select committees?

Unfinished business in general orders?

Special orders.

Mr. Tuck — Mr. President, may I ask that Dr. Rhees be excused from attendance to-day?

The President — Is there objection to the excuse asked for? Without objection Dr. Rhees is excused.

The President — General orders.

The Clerk will make any necessary announcements.

Mr. Lindsay — Mr. President, I should like to be excused from attendance on Tuesday as I have an engagement that is very important on that day.

The President — Is there objection? The Chair hears none and the excuse is granted.

Mr. M. Saxe — Mr. President, I want to ask if any announcement has been made as to the celebration of Magna Charta day?

The President — The Chair will announce the appointment of the Committee: Mr. M. Saxe, Mr. Gladding, Mr. Quigg, Mr. M. J. O'Brien, Mr. Stanchfield.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is carried and the Convention stands adjourned until 12 o'clock on Tuesday next.

Whereupon, at 10:25 a. m., the Convention adjourned to meet at 12 o'clock noon, Tuesday, May 25, 1915.

TUESDAY, MAY 25, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. J. Addison Jones — Let us pray. Almighty God, Our Heavenly Father, we bow before Thee this morning in gratitude and praise for Thy goodness. We have no reckoning with which to adequately represent the gifts of Thy goodness and of Thy grace unto the children of men. If we have triumphed over our difficulties it is in Thy strength. If we have been healed of our self-despisings, it is by Thy gracious encouragement. If we have been comforted in our sorrows it is by Thy Divine consolations, and if we have conceived and consummated anything wise, just, honorable or serviceable it is because Thou hast enlightened our minds and inspired our hearts and crowned our endeavors with good success. And now as we desire to turn the opportunities of this day to the highest advantage, we ask that Thou wilt guide us by Thy wisdom and support us by Thy strength. Save us from all indifference and fear; imbue us with the spirit of earnestness and of courage, that we may do always those things which meet with Thy Divine approbation and which minister to the true welfare of the human race. For Thy Name's sake, Amen.

The President — Are there any amendments to be proposed to the Journal of Thursday last?

Mr. Parsons — Mr. President, I have a correction to ask, not in relation to the Journal or the Record but in regard to Proposed Constitutional Amendment, No. 289, introduced by me on Friday last, in that, by a misunderstanding, part of the proposition as introduced by me was omitted. I therefore ask that the Committee on Suffrage be discharged from further consideration of No. 289, as printed, that it be reprinted as introduced by me, and that, as reprinted, it be referred to the Committee on Suffrage. It would bear the same number as it originally had.

The President — Is there any objection to the course requested by Mr. Parsons?

Mr. Wickersham — Mr. President, wouldn't it be rather confusing to have the same number? It might be 289-A, in that it might be confused with the uncorrected copies if it bore the same number.

Mr. Parsons — Well, the printer suggested it have the same number.

Mr. Wickersham — The difficulty, it seems to me, is that there are a thousand copies of this number distributed and unless you designate the correct number in some way, it will lead to confusion, I think.

Mr. Parsons — Well, I will accept the suggestion then, and change my request and have it read No. 289-A.

The President — The Chair would suggest that the regular routine at the desk will take care of the number without introducing new methods.

Mr. Marshall — Mr. President, wouldn't this be the proper disposition of it? Every measure has an introductory number. The introductory number would remain 289. There would be a new printed number, and it would be Introductory No. 289 and whatever the number would be when it was printed. We would always regard this as Introductory No. 289, and that is the practice of the Legislature and most bodies of this kind.

Mr. Parsons — Mr. President, I will be glad to accept that suggestion.

The President — The Secretary advises the Chair that that is the practice which is followed by the Legislature. Is there any objection to the course suggested by Mr. Parsons? The Chair hears none and it is so ordered.

Are there any amendments to be made to the Journal? If not, the Journal stands approved as printed.

The President — Presentation of memorials and petitions and so forth.

The Chair hands down a communication from the Madison County Bar Association, to be referred to the Committee on the Judiciary.

A communication from the Society of Engineers of Eastern New York, which will be referred to the Committee on the Governor and Other State Officers.

A communication from the New York Marine News Company, which will be referred to the Committee on Cities.

Communications from the Governor and other State officers.

The Chair hands down a communication from the clerk of the Court of Appeals in answer to a resolution of the Convention transmitted to the clerk on the 6th of May.

Mr. Wickersham — Mr. President, I move that that be printed as a document. It is a reply — a very comprehensive and very

interesting reply to a resolution adopted some days ago by the Convention. I have had the pleasure of looking over it and I think it would be regarded as of great interest to the members of the Convention.

The President — The Chair thinks that the motion to print must go to the Committee on Contingent Expenses under the rules. Therefore, if the Convention has no other order the document will be referred to the Committee on the Judiciary, and the motion to print as a document will go to the Committee on Contingent Expenses. Are there any other communications from State officers?

Notices, motions and resolutions.

Mr. Quigg — Mr. President, before proceeding into that order, I request unanimous consent in behalf of Judge Rodenbeck, who is absent at the moment, to say to the Convention that if there can be three copies of all resolutions and all proposals to amend presented to the Clerk, instead of two, as the rule now is, it will greatly facilitate the work of the newspaper correspondents. The rule requires that two copies shall be presented. One goes on the Clerk's files and he does not want to run the risk of losing it. The other goes to the printer and must go promptly; and if members will present three copies of all resolutions and of all proposals of amendment they will have much better publication of their propositions, for the third copy will then be at the disposition of the correspondents and may be used whereas now they have practically no opportunity. And in behalf of the Committee on Revision Judge Rodenbeck asks me to make that announcement.

Mr. Eisner — Mr. President, I offer the following.

The Secretary — By Mr. Eisner: Whereas, This Convention has, by resolution duly adopted, fixed the 15th day of June, 1915, for the observation of the seven hundredth anniversary of the signing of Magna Charta, and

Whereas, A committee of this Convention is charged with the duty of making necessary and proper arrangements for the said celebration, and

Whereas, It is most fitting that the distinguished living historian of the American people be among those who are to address the Convention on said occasion, which commemorates an event that has found its reflection in the liberties of our people,

Now, therefore, be it Resolved, That the Committee of this Convention in charge of the arrangements for the observation of the seven hundredth anniversary of Magna Charta be and it is hereby requested respectfully to invite Woodrow Wilson, President of the United States, to address this Convention on the said occasion.

The President — What is the pleasure of the Convention?

Mr. Wickersham — Mr. President, I move that the resolution be referred to the Committee appointed in connection with the observance of the 15th of June.

The President — Are there any remarks to be made on the motion?

Mr. Eisner — Mr. President, I have no objection to the motion of Mr. Wickersham, but I give notice that I will move the resolution, it giving rise to debate, providing the Committee has not made its report in due season. The resolution, Mr. Chairman, I believe is debatable at the present time, but I have no desire —

Mr. Wickersham — No, no, on objection it must stand over a day. If the gentleman objects to the resolution taking the usual course and going to the regular committee, it must stand over for a day, under the rules.

Mr. Eisner — I understand that, Mr. President, and I did not anticipate any objection. However, I have no objection to its being referred to a committee.

Mr. Quigg — Mr. President, it is only proper to say that the Committee has had some consideration of this matter, and there is some feeling in the Committee that the President of the United States ought not to be embarrassed at this time with any requests to attend celebrations and I hope my friend will consider that when he brings before the House the proposition to debate the resolution. The Committee feels that the President of the United States ought to be let alone at this time.

Mr. Eisner — I do not wish to discuss that phase of it at this time. The Committee will make a report of some nature on this resolution?

Mr. Quigg — Oh, undoubtedly.

The President — All in favor of the reference of the resolution to the select committee will say Aye, contrary No. That reference shall be made.

Mr. Griffin — Mr. President, I offer the following resolution.

The Secretary — By Mr. Griffin: Resolved, That the Committee on Library and Information ascertain, as speedily as possible, from the Commissioners of the Sinking Fund of the city of New York and the proper authorities in other first class cities in the State of New York, the following information:

First. The names and addresses of societies receiving fines, penalties and license fees pursuant to statutes of this State.

Second. The amount of fines, penalties and licenses paid to each of said societies during the last fiscal year.

Third. The statutes of this State under which said fines, penalties and licenses are paid, and be it further

Resolved, That the said information, when obtained, be transmitted to the Committee on Legislative Powers and the Committee on Taxation and be printed as a document of this Convention.

The President — Referred to the Committee on Library and Information.

The Secretary — By Mr. Whipple, by request: Resolved, That the Superintendent of Public Buildings be requested to make the necessary arrangements whereby at least one of the elevators of the Capitol shall run each evening except Sunday until 10 o'clock.

The President — Does any one desire to debate the resolution?

Mr. Whipple — I do this by request. It is of no consequence to me, as I walk anyway. I suggest it be referred to the proper committee, that the committee may investigate and see if there is any necessity for a request being made to the Superintendent of Public Buildings. I don't know whether there is or not.

The President — The committee that comes nearest to the subject is the Committee on Rules, and if there is no other suggestion that reference of the resolution will be made.

Propositions for Constitutional Amendment. The roll of districts will be called.

Mr. Bannister — Mr. President, I offer the following Proposed Constitutional Amendment.

The Secretary — By Mr. Bannister: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article VII of the Constitution, in relation to the prevention of pollution of waters of the State.

The President — Committee on Conservation.

Mr. Brenner — Mr. President, I offer the following.

The Secretary — By Mr. Brenner: Proposed Constitutional Amendment.

Second reading — To amend Section 12 of Article I of the Constitution, abolishing inchoate right of dower.

The President — Committee on Bill of Rights.

Mr. M. Saxe — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. M. Saxe: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article V of the Constitution, so as to provide for a system of retirement and annuities for State civil service employees.

The President — Committee on Civil Service.

Mr. Bernstein — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Bernstein: Proposed Constitutional Amendment.

Second reading — To amend Section 4 of Article III of the Constitution, providing for enumerations and reapportionments and for an equitable apportionment of Senate districts.

The President — The Committee on Legislative Organization.

The Secretary — By Mr. Bernstein: Proposed Constitutional Amendment.

Second reading — To amend Sections 1 and 2 of Article III of the Constitution, so as to provide for a unicameral Legislature composed of the Senate of 100 members, two of whom shall be elected from each Senate district.

The President — Committee on Legislative Organization.

Mr. Dunlap — Mr. President, I offer this Proposed Amendment at the request of the New York State Medical Society.

The Secretary — By Mr. Dunlap, by request: Proposed Constitutional Amendment.

Second reading — To amend Article VIII, by adding a new section to be numbered 16, to provide for the maintenance and support of the State Department of Health.

The President — Committee on the Governor and Other State Officers.

Mr. E. N. Smith — I offer the following.

The Secretary — By Mr. E. N. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 18 of Article VI of the Constitution, by increasing the jurisdiction of the inferior local courts.

The President — The Committee on the Judiciary.

Mr. Gladding — Mr. President, I offer the following.

The Secretary — By Mr. Gladding: Proposed Constitutional Amendment.

Second reading — To amend the first thirteen sections of Article VI of the Constitution, unifying the Court of Appeals with the Supreme Court, making the Court of Appeals a division of the Supreme Court, and making the Supreme Court in fact, what it is now in name, the Supreme Court of the State.

The President — Committee on the Judiciary.

Mr. R. B. Smith — I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 24 of Article III of the Constitution, in relation to bills imposing a direct State-wide tax.

The President — That would go either to the Committee on Legislative Powers or the Committee on Taxation. My impression would be that this should be referred to the Committee on Legislative Powers.

Mr. R. B. Smith — The amendment to which this is a companion went to the Committee on Legislative Powers.

The President — That reference will be made.

Mr. Leggett — May we have a copy of that sent to the Committee on Taxation? Would there be any objection to that?

Mr. R. B. Smith — No.

The President — If there is no objection, the customary order will be made and a copy sent to the Committee on Taxation for its information with authority to express an opinion as it may deem wise.

Mr. Betts — I offer the following Proposed Amendment.

The Secretary — By Mr. Betts: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article IV of the Constitution, in relation to the approval of bills by the Governor after adjournment of the Legislature.

The President — Committee on the Governor and Other State Officers.

Mr. Kirby — I offer the following.

The Secretary — By Mr. Kirby: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution, permitting judgment to be pronounced upon a plea of guilty before a committing magistrate without indictment in certain cases.

The President — Committee on Bill of Rights.

Mr. Wickersham — Mr. President, I suggest that that also be brought to the attention of the Committee on the Judiciary in the usual way.

The President — And also a copy to the Committee on the Judiciary for its information with authority to express its opinion as it may deem wise.

Mr. Low — I observe that the Proposed Amendment, No. 275, printed on the 20th of May, introduced by Mr. Vanderlyn, was sent to the Committee on Counties, Towns and Villages, Their Organization, Government, etc.; it relates to refunding of debt, and refers to cities as well as to the other organizations. I ask, therefore, that it may be sent also to the Cities Committee, by copy, with authority to express their opinion thereon.

The President — Without objection, a copy of the Proposed Amendment, No. 275, Introductory No. 275, will be sent to the Committee on Cities for its information with the customary authority.

Before going to the next order of business, the Chair wishes to correct an error into which he fell several days ago regarding

the powers of committees. Mr. Brackett has satisfied the Chair that under these rules which we have adopted there is in the committees of the Convention the power to report — the power to introduce by report, an original amendment, proposed amendment. Whatever would be done upon an amendment introduced in that way would have to be determined when the occasion arises. The Chair wishes to have it understood by the Convention that the opinion expressed by him upon the subject of powers of committees in that respect is modified as stated.

Reports of standing committees.

Reports of select committees.

Third reading of Proposed Amendments.

Unfinished business on general orders.

Special orders.

General orders.

The Secretary will make such announcements as he has to make.

Mr. Wickersham — I move we adjourn, Mr. President.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is carried and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 12:40 p. m., the Convention adjourned to meet at 10 o'clock a. m., Wednesday, May 26, 1915.

WEDNESDAY, MAY 26, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Wm. H. Stubblebine.

The Rev. Wm. H. Stubblebine — It is very right and fitting, Oh God, that, before beginning a great and important work men should bow at Thy throne to invoke Thy Divine blessing and supplicate the presence of Thy Holy Spirit to be with them. Give unto us, Oh God, we pray Thee, this moment as we wait before Thy throne, the consciousness of the imminence of Thy Holy Spirit, that Thou are not confined within temple walls and we need not traverse the mountains round about Samaria to find Thee. Thou are here, and we pray Thy presence may be consciously manifest in the hearts of each of these Thy servants. Lord we pray Thee that in the great and momentous issues involved in this Convention, issues that are affecting the glory and honor of Thy great and Holy Name, the integrity of the State and the future welfare of her subjects, we pray Thee that these men may supplicate the spirit of the Master, and seek Thy wisdom

pure and undefiled which cometh from above, that they may seek to know the truth, Oh God, as it has been revealed in Thy Holy Word and more clearly demonstrated in the life of Him who became the servant of us all. We pray that in all that is thought, all that is said and all that is done, Thy name may be honored and Thy name may be glorified, and the prestige of our State may be advanced not only in material but in moral and in spiritual things. So Lord we leave these, Thy servants, in Thy hands for the deliberations and the work of the day. Lead us ever by Thy counsel and when at last our toil is ended receive us unto Thyself in Christ Jesus Our Lord, to our eternal reward, for His Name's sake we ask it, Amen.

The President — Are there any amendments to the Journal of the legislative day before yesterday as printed and distributed? There being no amendments, the Journal is approved as printed.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Wiggins — Mr. President, I offer the following resolution.

The Secretary — By Mr. Wiggins: Resolved, That when the Convention adjourns on Friday of this week, that it adjourn to meet on Wednesday, June 2d, at 12 o'clock noon.

The President — What is the pleasure of the Convention?

Mr. Wickersham — Mr. President, I suggest that stand over until to-morrow.

The President — Under the rule the resolution will stand over until to-morrow. The Secretary will continue the call of the roll.

The President — Propositions for Constitutional Amendment. The Secretary will call the roll of districts.

Mr. McKinney — I offer the following.

The Secretary — By Mr. McKinney: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article VI of the Constitution, by inserting a new clause relating to the power of the court to annul acts of the Legislature.

The President — Committee on the Judiciary.

Mr. Ryan — I offer the following.

The Secretary — By Mr. Ryan: Proposed Amendment to the Constitution.

Second reading — To amend Section 17 of Article VI of the Constitution, in relation to the removal and tenure of office of certain local judicial officers.

The President — Committee on the Judiciary.

The Secretary — By Mr. Ryan: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to the laying out, opening, regulating and changing the grade of public streets or roads.

The President — Committee on Public Utilities.

Mr. Reeves — Mr. President, I offer the following, by request.

The Secretary — By Mr. Reeves, by request: Proposed Amendment to the Constitution.

Second reading — To amend the Constitution, by substituting new sections in Article VI relating to the judicial system of the State, generally.

The President — Committee on the Judiciary.

Mr. Brenner — I offer the following.

The Secretary — By Mr. Brenner: Proposed Amendment to the Constitution.

Second reading — To amend Section 10 of Article VI of the Constitution, renominating incumbents of office of the chief justice of the Court of Appeals, the judges of the Court of Appeals and justices of the Supreme Court.

The President — Committee on the Judiciary.

The Secretary — By Mr. Brenner: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to exemptions from jury service.

The President — Committee on the Judiciary.

Mr. Sargent — Mr. President, I offer the following Proposed Amendment to the Constitution.

The Secretary — By Mr. Sargent: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article VI of the Constitution, in relation to assignments and rotation of justices of the Supreme Court.

The President — Committee on the Judiciary.

Mr. Baldwin — I offer the following.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, Section 7, of the Constitution, in relation to the use by, or sale to, a municipal corporation for water supply purposes of lands in the State now owned or hereafter acquired.

The President — To the Committee on Conservation of Natural Resources, unless Mr. Baldwin has some other Committee to suggest.

Mr. Low — Mr. President, would it not be desirable to have a copy sent to the Committee on Cities for its information?

The President — Unless there is objection that order will be made. The Proposed Amendment will be referred to the Committee on Conservation of Natural Resources and a copy to the Committee on Cities with the customary authority.

Mr. Low — Mr. President, I offer the following, by request, and request that it be referred to the Committee on Cities, a copy to be sent to the Committee on County, Town and Village Government. The Proposed Amendment comes from real estate interests in the State of New York and it is offered as an alternative to the one offered from the mayors' conference and I ask that it be referred to the Committee on Cities and that a copy be sent to the Committee on County, Town and Village Government and Their Organization for their information.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Articles III, X and XII of the Constitution, in relation to the powers of local government of counties, cities and villages.

The President — Referred to the Committee on Cities, a copy to be sent to the Committee on County, Town and Village Government, for their information and with the customary authority.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Articles III and XII of the Constitution, in relation to the powers of city authorities to fix the compensation and define the powers and duties of officers and employees of counties wholly within the city.

Mr. Wiggins — Mr. President, that very largely pertains to the question of municipal control and, if it should be agreeable to the President, I should suggest reference to the Committee on Cities, and that a copy be sent to the Committee on County, Town and Village Government for the purpose of reporting its opinion.

The President — That reference will be made with a copy to the County, Town and Village Government Committee with the usual authority to express their opinion.

Mr. Barnes — Mr. President, I offer the following.

The Secretary — By Mr. Barnes: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, relating to the powers of the Legislature.

The President — Referred to the Committee on Legislative Powers.

Mr. Ostrander — Mr. President, I offer the following.

The Secretary — By Mr. Ostrander: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, by adding a new section thereto, in relation to determination of claims against the State.

The President — Referred to the Committee on the Judiciary.

Mr. Bunce — Mr. President, I offer the following amendment.

The Secretary — By Mr. Bunce: Proposed Amendment to the Constitution.

Second reading — To amend Section 5 of Article III of the Constitution, relative to Assemblymen and the creation of Assembly districts.

The President — Referred to the Committee on Legislative Organization.

The Secretary — By Mr. Meigs: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, relating to abolishing exemptions from local taxation and providing for the repayment by the State of local taxes hereafter paid on property which would be exempt under present laws.

The President — Referred to the Committee on Taxation.

The Secretary — By Mr. L. M. Martin: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article X of the Constitution, in relation to the appointment of local officers and to legislation affecting such officers.

The President — Reference will be made to the Committee on County, Town and Village Officers.

Mr. Low — Mr. President, it is desirable to have a copy sent to the Committee on Cities for its information.

The President — That order will be made and a copy will be sent to the Committee on Cities for their information with the usual authority to express their opinion.

Mr. Dunmore — Mr. President, I offer the following.

The Secretary — By Mr. Dunmore: Proposed Constitutional Amendment.

Second reading — To amend Section 23 of Article VI of the Constitution, in relation to abolishing Courts of Special Sessions.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Dunmore: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to taking private property for public use.

The President — Referred to the Committee on Bill of Rights with a copy to the Committee on Cities.

Mr. Marshall — Mr. President, in this connection I will ask you to reconsider the reference of the proposal introduced by Mr. Ryan to amend Section 7 of Article I, in relation to the laying out and changing of grade of public streets. This relates to the question of confiscation in taking private property for public use and we have now before the Committee six measures dealing with the same subject. I think you have heretofore referred these to the Judiciary Committee and the Judiciary Committee has not under consideration any measures of that character.

Mr. Wickersham — It is rather difficult to tell exactly what reference should be made with both of these measures. They are dealing with procedure in court and at the same time involve the method of ascertaining compensation to be paid for private property. I have no objection whatever to their going to the Committee on Bill of Rights, but I think that the usual order should be made that the bills are referred to the Judiciary Committee for information and such expression of opinion as they may choose to make. The line is not very easy to draw.

Mr. Marshall — They both relate to the fundamental right of property, taking private property for public use; as to how it shall be done, and when it shall be done, is all subject to the fundamental principle as to whether it shall be done.

Mr. Wickersham — The same may be said as to almost every judicial proceeding.

The President — The Proposed Amendment introduced by Mr. Ryan, it appeared after a hasty inspection by the Chair as not substantially affecting the right, purely, the Bill of Rights, but rather to modify the procedure under which the value of property taken for a public road would be ascertained. It seemed to be rather a matter of procedure in the taking of property already permitted by the Constitution. A careful comparison of existing contributions may lead to different conclusions. But the Chair finds it difficult without that comparison to decide absolutely. Perhaps the reference would better stand, until more careful consideration, in the Judiciary Committee with direction that a copy be sent to the Bill of Rights Committee for information with the customary authority. It is entirely in the hands of the Convention as all these references are. If upon careful comparison it appears that this amendment, this Proposed Amendment, introduced by Mr. Ryan, ought to go to the Committee on Bill of Rights, that change can be made at to-morrow's session.

The Secretary — By Mr. Dunmore: A Proposed Constitutional Amendment.

Second reading — To amend Section 21 of Article VI of the Constitution, in relation to the publication and distribution of statutes.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article III, in reference to the time the legislative acts shall take effect.

The President — Referred to the Committee on Legislative Powers.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Section 17 of Article III, in reference to the time legislative acts shall take effect.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article X of the Constitution, in relation to the terms of the office of sheriff.

The President — Committee on County, Town and Village Officers.

Mr. R. B. Smith — I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 21 of Article III of the Constitution, in relation to laws appropriating moneys.

The President — Committee on Legislative Powers.

Mr. Stimson — Mr. President, may I ask that a copy of that be sent to the Committee on State Finance?

The President — Without objection that order will be made.

Mr. Wadsworth — I offer the following.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, Sections 11, 12, 13 and 15, in relation to the State Board of Charities, providing for visiting and inspecting of public and private institutions and societies.

The President — Committee on Charities.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, by adding thereto a new section, known as Section 16, creating a State Commission in Lunacy.

The President — Committee on Charities.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, by adding thereto a new section, to be known as Section 17, creating a State Commission of Prisons.

The President — Committee on Prisons and the Prevention and Punishment of Crime.

Mr. Wadsworth — That pertains to the prisons, and I think that bill belongs to the Committee on Charities, Mr. President.

The President — It appeared to relate principally and exclusively to prisons.

Mr. Wadsworth — I have no objection.

The President — The Chair thinks the reference should be to the Committee on Prisons, with a copy to the Committee on Charities for their information and with the customary authority. If there is no objection that reference will be made.

Mr. Tanner — Mr. President, I ask that a copy be sent to the Committee on the Governor and Other State Officers, for their information, and also the preceding amendment, if there is no objection.

The President — Without objection that order will be made.

Mr. Curran — I offer the following Proposed Amendment, by request.

The Secretary — By Mr. Curran: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article V of the Constitution, relative to the election of Superintendent of Public Works.

The President — Is there any suggestion as to the reference?

Mr. Curran — I would suggest that it be sent to the Committee on the Governor and Other State Officers.

The President — That reference will be made.

Mr. Clinton — Mr. President, I ask that a copy of that be sent to the Committee on Canals for its consideration.

The President — Without objection that order will be made.

Mr. Franchot — Mr. President, the following is offered, by request.

The Secretary — By Mr. Franchot: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, relating to cities and villages, so as to regulate legislation concerning them and guaranteeing to them the right of municipal self-government.

The President — Committee on Cities and a copy to the Committee on County, Town and Village Government, with the customary authority.

Mr. O'Connor — I offer the following, by request.

The Secretary — By Mr. O'Connor: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article V of the Constitution, relative to the election of certain officers.

The President — Committee on the Governor and Other State Officers.

Mr. Low — May I ask that a copy of Proposed Amendment No. 268, introduced by Mr. Mann, on May 20th, be sent to the Committee on Cities for its information? It relates to the appointment of officials and deals with the city civil service.

The President — Without objection that order will be made.

Mr. Cullinan — I would ask unanimous consent to offer at this time a resolution in relation to the stationery of the Convention.

The President — If there is no objection the resolution will be received and the Secretary will report the resolution.

The Secretary — By Mr. Cullinan: Resolved, That the Clerk of the Convention be directed to furnish each standing committee of the Convention with such stationery as may be required for the business of the Committee, which stationery shall have placed thereon the title of the Committee and the names of the members thereof.

Mr. Cullinan — Mr. President, I would like to ask unanimous consent to say a few words in regard to that resolution.

Mr. President, the members of the Convention are aware that our stationery merely has the title of CONSTITUTIONAL CONVENTION. In conducting the usual correspondence that a committee, or a chairman, is obliged to conduct in behalf of the Convention, it would seem to me that we should follow the course, for instance, of legislative bodies in general, that the Committee, standing committee, should have stationery with the names of the members of the Committee thereon.

If that is not done, a party receiving a letter, for instance, from some committee of the Convention and seeing a signature, which, in nine times out of ten, is indecipherable, it might help the situation and facilitate the business of the Convention if we had a style of stationery with the title and the names of the members of the Committee printed as they do in Congress and in other legislative bodies.

The President — Under the rule, this resolution will go to the Committee on Contingent Expenses.

Reports of standing committees.

Reports of select committees.

Mr. M. Saxe — Mr. President, I offer the following report from the Committee on the Celebration of the Seven Hundredth Anniversary of Magna Charta.

The Secretary — Report of the Select Committee on the Holding of Exercises to Commemorate the Seven Hundredth Anniversary of Magna Charta.

Your Committee begs leave to respectfully submit the following report:

The hour of 8 o'clock in the evening of June 15th in the Assembly Chamber has been fixed for the holding of said exercises.

Invitations to address the Convention on that occasion have been extended to the President of the United States, Mr. Joseph A. Choate, Dr. Nicholas Murray Butler, Judge Alton B. Parker, Judge Edgar M. Cullen, Judge Charles Andrews, and Mr. William D. Guthrie.

The President of the Convention has kindly consented to preside and address us. The Committee is already assured of the presence of Mr. Choate, Judge Cullen, Dr. Butler and Mr. Guthrie, and expects to receive favorable responses from the other invited guests very shortly.

It was decided to issue no formal invitations for the occasion on account of the limited accommodations of the Assembly Chamber. The press will kindly take notice of this announcement of the time and place for the holding of the exercises. A special notice of the same will be sent to some of the leading colleges and universities.

Respectfully submitted,
MARTIN SAXE,
Chairman.

The President — Does Mr. Saxe suggest any action on the report?

Mr. M. Saxe — I do not think any action is necessary.

The President — Third reading.

Unfinished business on general orders.

Special orders.

General orders.

Mr. Rhees — I would like to ask the consent of the Convention for the absence of Mr. Tuck of the forty-fifth district during the remainder of this week, as he is detained because of business engagements.

The President — You have heard the request for the excuse of Mr. Tuck during the remainder of the week. Without objection the excuse will be granted.

Mr. Sears — Mr. President, may I ask that Mr. J. L. O'Brian be excused during the balance of this week for personal reasons?

The President — Is there any objection to the request? Without objection Mr. J. L. O'Brian will be excused.

Mr. Wiggins — Mr. President, I would like to say just a word in respect to the resolution which I introduced this morning fixing the time for reconvening as Wednesday of next week at 12 o'clock noon.

In introducing that resolution I had in mind that a committee hearing on Tuesday of next week would be lost, and it occurred to me that the suggestion might be made to the various committees that their committee meetings be advanced from next Tuesday to Friday of this week, so as to prevent adjournment to the day immediately following Decoration Day, and which would require the members to leave home on Decoration Day in order to be here on Tuesday, the regular day for convening. I think if the committees meet on Friday, it would overcome or prevent some possible difficulty in connection with a loss of committee hearings.

Mr. Wickersham — Mr. President, I think if chairmen of respective committees that meet on Tuesday will consider the feasibility of having their meeting on Friday of this week instead of next Tuesday and there seems to be a general consensus of opinion that the change suggested by Mr. Wiggins' motion is a good one, there will be a disposition to pass it to-morrow.

Mr. M. Saxe — Mr. President, I would like to call the attention of the Convention to the fact that some committees have fixed hearings on that day. Our notice has been given. The Committee on Taxation has a hearing scheduled for Tuesday evening.

Mr. Wickersham — Mr. President, I take it that there is nothing to prevent a committee having a hearing on Tuesday, if it so desires, notwithstanding the adjournment of the Convention. The question suggested by Mr. Wiggins' resolution is merely that the Convention shall not meet on Tuesday.

Mr. M. Saxe — Mr. President, my only point was that members of the Committee might take it for granted that that eliminated the hearing set for that day and I wanted to impress that upon the members of that Committee, that we wanted to have the Committee present, at least out of courtesy to those who are going to appear at the hearing.

Mr. Wickersham — I take it, Mr. President, that the chairman of the Committee will correct any misapprehension of that sort on the part of members of his Committee.

The President — The Secretary will read the announcements.

The Secretary — The mayors' conference has asked to be heard on the O'Brian home rule amendment on Thursday, June 3d.

A hearing will be given at that time in Cities Committee Room, No. 342, upon this amendment, to which all who have submitted other home rule amendments are invited.

In view of the fact that all pending amendments before the Committee on Cities, except one, relate to the general question of home rule, the Committee on Cities has canceled the hearing set for Thursday of this week, in order that the hearing on the proposal of the mayors' conference may be made the first, and that other amendments may be considered in connection with this.

Mr. Wagner — Mr. President, does that notice say that the mayors' conference proposals shall be considered first by the Committee, is that the purport of that notice?

Mr. Low — Mr. President, that was the understanding reached by the Committee on Cities yesterday.

Mr. Wagner — Oh, it did. I was wondering. My Proposed Amendment precedes by a week or two the other amendment, and I was wondering why their proposal was to receive a preference over mine.

Mr. Low — The Committee on Cities felt that inasmuch as the amendment coming from the mayors' conference came in a certain informal way from all the cities of the State, that it was better to give the hearing upon that amendment than upon the earlier amendments; that all the others which bear upon the same subject may be considered in connection with that one.

Mr. Wagner — I simply did not want to have the impression go out that the Proposed Amendment recommended by the mayors is considered superior to or more important than an amendment proposed by me, although I have never had the good fortune of being a mayor.

Mr. Low — Mr. President, a hearing was fixed for Thursday of this week upon the amendment suggested by Senator Wagner and upon others which have already been introduced. The Committee were informed yesterday that it was not convenient to go forward with the hearing, and after consideration they have adopted the plan which in their judgment is best calculated to bring out all sides of the problem and it was not intended to indicate that one amendment was more important than another.

Mr. J. S. Phillips — Mr. President, in connection with the notice which has just been given in regard to the meeting of the Committee on Library and Information, I beg to state for the information of the delegates that arrangements have been made whereby the publications and the reports which have been gotten out by the Constitution Commission, which was organized and appointed for the purpose of gathering information — that those reports and publications have been placed in the Legislative Library and will be accessible to any member of the Convention; and arrangements have also been made whereby tables will be placed in the library and the library will be at the disposal of the

delegates of the Convention, at the disposal of any delegates who desire to use the library for any purpose.

Mr. Wickersham — I move we adjourn.

The President — It is moved that the Convention do now adjourn. All those in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 11 a. m., the Convention adjourned to meet at 10 o'clock a. m., Thursday, May 27, 1915.

THURSDAY, MAY 27, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Joseph Dunney.

Rev. Joseph Dunney — In the Name of the Father and of the Son and of the Holy Ghost, Amen. Our Father, who art in Heaven, hallowed be Thy Name, Thy Kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us, and lead us not into temptation, but deliver us from evil, Amen. In the Name of the Father, and of the Son and of the Holy Ghost.

The President — Are there any corrections to be made in the Journal of Tuesday? There being no corrections the Journal will stand approved as printed.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

The Secretary — By Mr. Cullinan: Resolved, That the State Engineer and Surveyor furnish this Convention with a statement showing the localities where the surplus waters of the canals of the State were used by persons, associations, corporations or others for the development of water power, prior to the construction of the Barge canal improvement, pursuant to the terms of the act in that behalf and the referendum approving the same; and what moneys, if any, were paid or contracted to be paid for the same:

That the State Engineer and Surveyor furnish this Convention with a statement showing the localities where and the amount of water power development arising out of the construction of the Barge canal improvement, together with the names of the persons, associations, corporations or others using the surplus waters of

the canal for the development of water power; and what moneys are being paid or contracted to be paid for the same.

The President — Referred to the Committee on Information.

The Secretary — By Mr. Cullinan: Resolved, That the Canal Board furnish this Convention with a record of all matters and transactions with reference to the use or lease of lands of the State; the use or lease of the surplus waters of the canals; all transactions, contracts or agreements involving the use, lease or sale of the surplus waters of the canals or of any waterway of the State over which the Canal Board exercises supervision or control or involving the development of water power therefrom.

The President — The same reference.

Mr. Tanner — Mr. President, while I think I am a little out of order on the roll call, I ask to have Proposed Constitutional Amendment No. 209, introduced by Mr. Deyo, referred primarily to the Committee on the Governor and Other State Officers, the Committee on Legislative Powers retaining a copy of this. This is with the consent of the chairman on that Committee. It refers to the power of the Governor to approve of a tax rate at a lower amount than that specified in the bill, and I think primarily it should go to the Committee relating to the power of the Governor rather than Legislative Powers Committee.

The President — Is there any objection to the change of reference from the Committee on Legislative Powers to the Committee on the Governor and Other State Officers; is that the proposal?

Mr. Tanner — I took it up with the chairman of that Committee yesterday and he himself consents to that reference.

The President — You desire the reference to the Governor and Other State Officers?

Mr. Tanner — That is right.

The President — Is there objection to changing that reference? The Chair hears none and it is so ordered.

Mr. Tanner — Now, Mr. President, relating to the following Proposed Amendments which were sent to the Committee on Legislative Powers, I ask that a copy of Nos. 78, 184 and 223 be sent to the Committee on the Governor and Other State Officers for information and with opinion.

The President — Is there any objection to that request? Without objection it is so ordered.

Mr. Tanner — And, Mr. President, in reference to the following Proposed Amendments, sent to the Civil Service Committee, Nos. 136 and 237, I ask that a like disposition be made, that is, that a copy be sent to the Committee on the Governor and Other State Officers with the opinion of the Committee on Civil Service. There is no objection to that.

The President — What is that?

Mr. Tanner — I think there is no objection to that.

The President — The Secretary would like to know whether those are the introductory numbers.

Mr. Tanner — These are the introductory numbers, Mr. President.

The President — Without objection that order will be made.

Mr. Stimson — Mr. President, I should like to ask that a similar disposition be made of amendment, Introductory No. 209, introduced by Mr. Deyo, the one which has just been sent to the Committee on the Governor and Other State Officers; I should like to ask that a copy of that be sent also to the Committee on State Finance, as it relates to a matter pending before that Committee, in respect to the budget, to a certain extent.

The President — Without objection that order will be made.

Mr. Stimson — Mr. President, I should like to make a similar request in regard to Introductory No. 315, introduced yesterday by Mr. Barnes. A portion of that also relates to the budget, and I should like to ask that a copy of that amendment, which has been referred to the Committee on Legislative Powers, be sent to the Committee on State Finance.

The President — Without objection that order will be made.

Mr. Low — May I ask that a copy be sent, Mr. President, with the same privilege, to the Committee on Cities; a copy of Introductory No. 315? That also relates to cities.

The President — That order will be made without objection.

Mr. Parsons — Mr. President, may I ask that a similar disposition be made of No. 315, that a copy be sent to the Committee on Industrial Interests and Relations for its information and opinion?

The President — That order will be made without objection.

Introduction of propositions for Constitutional Amendment.

The Secretary will call the roll of districts.

Mr. Coles — Mr. President, I offer two Constitutional Amendments.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to holding persons to answer for capital or otherwise infamous crimes.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Section 20 of Article VI of the Constitution, by providing that no judicial officer shall receive to his own use any fees or perquisites of office.

The President — Referred to the Committee on the Judiciary.

Mr. Buxbaum — Mr. President, I offer the following.

The Secretary — By Mr. Buxbaum: Proposed Constitutional Amendment.

Second reading — To amend Section 5, Article III, of the Constitution, in relation to apportionment of Assemblymen and creation of Assembly districts.

The President — Referred to the Committee on Legislative Organization.

Mr. Steinbrink — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Steinbrink: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article VI of the Constitution, by empowering the presiding justice of each Appellate Division to make temporary designation of justices to sit in the Appellate Division and empowering the Appellate Division to modify sentences in criminal cases.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Bayes: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII of the Constitution, by adding a new section relating to the liability of stockholder of corporations for labor performed for such corporation.

The President — Referred to the Committee on Corporations.

Mr. A. E. Smith — Mr. President, I offer four Proposed Amendments.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to corporation and State taxes.

The President — Referred to the Committee on State Finances.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article VII of the Constitution, in relation to preventing the accrual of contract debts against the State unless there be an appropriation available therefor.

The President — I think the same reference, unless Mr. Smith has some other designation to propose.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, in relation to serial bonds to provide money for public improvements hereafter authorized.

The President — The same reference.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to departmental estimates as a basis for desired appropriations.

The President — The same reference.

Mr. Tanner — Mr. President, I ask that a copy be sent to the Committee on the Governor and Other State Officers for information.

The President — That is, on the last one?

Mr. Tanner — On the last two, Mr. President.

The President — That order will be made.

Mr. Wagner — Mr. President, I offer the following.

The Secretary — By Mr. Wagner: Proposed Amendment to the Constitution.

Second reading — To amend Section 24 of Article III of the State Constitution, by directing the State Comptroller to lessen the rate of taxation in cases of direct tax.

The President — That may go to the Committee on Finance or Taxation.

Mr. Wagner — Finance, I think, Mr. President.

The President — To the Committee on Finance with a copy to the Committee on Taxation.

Mr. Tanner — Mr. President, I offer the following.

The Secretary — By Mr. Tanner: Proposed Amendment to the Constitution.

Second reading — To amend Section 9, Article IV of the Constitution, in relation to the approval of bills passed by the Legislature.

Mr. Tanner — I suggest that go to the Committee on the Governor and Other State Officers, with a copy to the Finance Committee.

The President — There have been some amendments proposed touching the same subject. The Chair does not recall whether they went to that Committee or not. Well, if there is no other suggestion that reference will be made.

Mr. Tanner — Mr. President, if there is no objection I would ask for the reference to the Committee on the Governor and Other State Officers.

Mr. Stimson — I am not familiar with the exact proposition but as the title was stated, it seemed to me it was the same as several amendments already pending before the Finance Committee.

The President — It relates to giving power to the Governor to reduce the amount of appropriations.

Mr. Stimson — Mr. President, I suggest then that it be sent to the Committee on State Finance with a copy to the Committee on the Governor and Other State Officers.

Mr. Tanner — I have no objection.

The President — That reference will be made, to the Committee on Finance with a copy to the Committee on the Governor and Other State Officers with authority to express their opinion.

The Secretary — By Mr. Shipman: Proposed Amendment to the Constitution.

Second reading — To amend Section 11 of Article VIII of the State Constitution, relating to boards and commissions.

The President — Referred to the Committee on Charities with a copy to the Committee on the Governor and Other State Officers.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article VII of the Constitution, in relation to tolls for navigating the canals, and granting authority to the Canal Board to regulate the fixing and collection of tolls unless the Legislature shall otherwise direct.

The President — Referred to the Committee on Canals.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article I, providing for the impaneling of additional jurors in such manner as may be prescribed by the Legislature to fill vacancies which for any cause may occur prior to the submission of the case to the jury.

The President — Referred to the Committee on Bill of Rights with a copy to the Committee on the Judiciary.

Mr. Heaton — Mr. President, I propose a Constitutional Amendment.

The Secretary — By Mr. Heaton: A Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article VI of the Constitution, in relation to surrogates and Surrogates' Courts, their powers and jurisdiction, providing for the continuance of such officers and courts and the enlargement of their powers and jurisdiction.

The President — Referred to the Committee on the Judiciary.

Mr. Bunce — Mr. President, I offer the following amendment.

The Secretary — By Mr. Bunce: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to public uses for which private property may be taken.

The President — Referred to the Committee on Bill of Rights.

Mr. Bunce — Mr. President, I also suggest that a copy of the amendment be sent to the Committee on State Finance, also a copy to the Committee on Taxation for their information.

The President — Without objection that order will be made.

Mr. Angell — Mr. President, I offer the following.

The Secretary — By Mr. Angell: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, by adding a new section relating to claims against the State.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Angell: Proposed Amendment to the Constitution.

Second reading — To amend Article I, Section 2, of the Constitution, relating to trial by jury.

The President — Referred to the Committee on Bill of Rights.

Mr. Wood — Mr. President, I offer the following.

The Secretary — By Mr. Wood: Proposed Amendment to the Constitution.

Second reading — To amend Section 9, Article V, of the Constitution, in relation to civil service appointments, promotions and retention.

The President — Referred to the Committee on Civil Service.

Mr. Wickersham — Mr. President, I am requested by Mr. Rodenbeck to offer the following Constitutional Amendment.

The Secretary — By Mr. Rodenbeck: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution, by adding a new section, to be known as Section 9-a, for the purpose of obviating new trials by conferring upon the appellate courts authority to take evidence and exercise such powers as may be necessary to effect a final determination of controversies.

The President — Referred to the Committee on the Judiciary.

Mr. Franchot — Mr. President, I offer the following amendment.

The Secretary — By Mr. Franchot: Proposed Amendment to the Constitution.

Second reading — To amend Section 1, Article II, by providing that in the event of the approval by the people at the general election in the year nineteen hundred and fifteen of the amendment to said section proposed by the Legislature, granting the right of suffrage to women, the said Section 1 of Article II shall be amended as set forth in the said amendment proposed by the Legislature.

The President — Referred to the Committee on Suffrage.

Mr. Kirby — Mr. President, by request I propose the following amendment.

The Secretary — By Mr. Kirby: Proposed Amendment to the Constitution.

Second reading — To amend Section 6, Article I, of the Constitution, permitting the taking of depositions of witnesses without the State on an indictment charging a felony.

The President — Referred to the Committee on Bill of Rights.

Mr. A. E. Smith — Mr. President, I ask unanimous consent for the introduction of a Proposed Amendment out of order.

The President — Without objection the amendment offered by Mr. A. E. Smith will be received.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, by repealing Section 5 of such article and substituting a new section relating to Assembly districts and apportionment of members of Assembly.

The President — Referred to the Committee on Legislative Organization.

Reports of standing committees.

The Secretary — Mr. S. K. Phillips for the Committee on Contingent Expenses reports back the resolution offered by Mr. Wickersham, May 25, 1915, providing that a communication from the clerk of the Court of Appeals in answer to a resolution of the Convention transmitted May 6, 1915, shall be printed as a document, with their recommendation that it be adopted.

Mr. Wickersham — Mr. President, I move the adoption of the resolution.

The President — Are there any remarks to be made on the resolution? All in favor of it say Aye, all opposed No. The resolution is agreed to.

The Secretary — By Mr. S. K. Phillips: The Committee on Contingent Expenses reports back the resolution offered May 26, 1915, by Mr. Cullinan, providing for a supply of stationery to the standing committees of the Convention, with the recommendation that the Secretary be authorized to provide and apportion not to exceed 100 reams of Convention letter paper and necessary envelopes, with the title of the Committee and the name of the members on the letter paper, the title of the Committee only on the envelopes, at an additional expense for the extra printing of not to exceed \$200.

Mr. Cullinan — Mr. President, I ask the adoption of the report.

The President — Are there any remarks to be made on the motion for the adoption of this report? All in favor will say Aye, contrary No. The report is agreed to.

Mr. J. S. Phillips — Mr. President, I submit report from the Committee on Library and Information.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Griffin, May 25, 1915, relating to the subject of obtaining certain information in reference to the payment of fines, penalties and license fees to certain societies in the city of New York, reports that it has considered said resolution and recommends the adoption of the following amended resolution:

Resolved, That the commissioners of the sinking fund of the city of New York be requested to furnish to the Secretary of this Convention the names and addresses of the societies to which payment is made by the city of New York of fines received as penalties for infractions of the law, and what amounts were paid during the year 1914 by the city of New York, and the provisions of the law pursuant to which such payments were made. Also a statement of the societies to whom the city paid, either in whole or part, the amounts received as license fees.

The President — Any remarks to be made upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Any reports of standing committees?

Mr. J. S. Phillips — Mr. President, in the absence of Mr. Barnes, the chairman of the Committee on Legislative Powers, I submit the following report.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. R. B. Smith, No. 293, Introductory 290, entitled "Proposed Constitutional Amendment. To amend Section 10 of Article III of the Constitution, in relation to the powers of each House of the Legislature," reports the same with the following amendment, and requests that said proposition be reprinted and recommitted to the said committee.

The President — Without objection, that order will be made.

Reports of select committees.

Mr. M. J. O'Brien — Mr. President, I ask consent for the printing of this supplemental report of the Constitutional Convention Commission.

Mr. J. L. O'Brien — Mr. President, I would like to have it printed as a document. I don't think it is necessary to read it. I think it contains information that the members of the Convention should have, and if there is no objection I ask to have it accepted as a supplemental report.

The President — The Secretary will read enough of the report so as to inform the members of the Convention as to what it is.

The Secretary — Supplemental Report of the Constitutional Convention Commission.

Mr. Schurman — Mr. President, the report will be printed as a part of Document No. 6. As the members of the Convention know, it is a very instructive report. This supplemental report completes it, and I second the motion that it be printed as a document.

The President — Are there any remarks to be made on the motion to print as a document the supplement to Document No. 6, report of the Constitutional Convention Commission on its work? All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Wickersham — Mr. President, I offer the following resolution, and move its adoption.

The Secretary — By Mr. Wickersham: Resolved, That the Convention tenders to the Hon. Charles Andrews, ex-chief judge of the Court of Appeals, its hearty congratulations upon the attainment by him this day of the age of eighty-eight years, and expresses its earnest wish that he may ever continue to enjoy good health and full intellectual vigor.

Mr. Wickersham — Mr. President, I do not think any extended remarks are necessary, but in view of the great eminence of Judge Andrews, in view of the high esteem in which he is held, not only by the legal profession, but by the entire State, and in view of the great judicial office he has occupied, it seems to me eminently proper that on this day, when he attains his eighty-eighth birthday, this Convention should take note and record its esteem and its hope for his continued health and vigor.

Mr. Dykman — Mr. President, I think we will all feel it a privilege to participate in this act of felicitation, and the people of the whole State, and the members of the profession which Judge Andrews has so greatly adorned, will approve of this courteous act.

Mr. Mereness — Mr. President, I should be very, very glad if Judge Andrews was a member of this Convention, as he was in the Convention of 1867, and I want to second the resolution.

The President — Any further remarks to be made on the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is unanimously adopted.

Mr. Wickersham — Mr. President, I move that the Secretary of the Convention telegraph the resolution to Judge Andrews in order that he may have it to-day.

The President — Without objection, that order will be made.
Third reading.

Unfinished business on general orders.

Mr. Wiggins — Mr. President, I would like to call up for consideration the resolution which I offered yesterday with respect to adjournment to Wednesday, June 2d, at 12 o'clock.

The President — The Secretary will report the resolution for the information of the Convention.

The Secretary — By Mr. Wiggins: Resolved, That when the Convention adjourns on Friday of this week, they adjourn to meet on Wednesday, June 2d, at 12 o'clock noon.

The President — The resolution is before the Convention. Are there any remarks to be made upon it?

Mr. Parsons — Mr. President, I offer an amendment, striking out the words "12 o'clock noon" and substituting the words "10 o'clock in the forenoon."

Mr. Wiggins — Mr. President, I rise to a point of order.

The President — Will you please state the point of order?

Mr. Wiggins — That it is too late.

Mr. Quigg — It is too early.

Mr. Parsons — Mr. President, if we adjourn over Tuesday of next week, we lose one day, and if we do not meet until 12 o'clock on Wednesday, we will lose at least a third of Wednesday, and it is impossible to hold any committee meetings on Wednesday morning, if we do not meet until 12 o'clock noon.

Now, from my observation, most of the members of the Convention are here in time for a session at 10 o'clock on Wednesday morning, or they are here in time for a session on Tuesday morning at 10 o'clock, and I think they will be here in time for the session at 10 o'clock on Wednesday morning.

What takes place in our sessions now is merely the introduction of resolutions and amendments, and while some may have to be absent, the Convention would be getting to work better if it meets at 10 o'clock Wednesday morning than if it meets at noon, and I therefore hope that my amendment will be adopted. It won't inconvenience any one and it will enable most of the members of the Convention to be here in time to start in at work on Wednesday morning at 10 o'clock.

Mr. Quigg — Mr. President, the amendment proposed by Mr. Parsons defeats the whole purpose of the resolution.

Now, if the gentlemen who are chairmen of committees that are due to meet on Tuesday will do their duty, and if the members of the Committee will do theirs, they can be here and hold their meetings, and those of us who do not have to meet on Tuesday will not be obliged to be back, and there is no reason why the whole Convention should be assembled on Tuesday in order that those members of committees that are due to meet on Tuesday should be here. I hope Mr. Parsons' amendment will not prevail.

The President — Are there any further remarks to be made? The question before the Convention is the amendment offered by Mr. Parsons striking out 12 o'clock noon and inserting in lieu thereof 10 o'clock in the forenoon. All in favor of the motion will say Aye, contrary No. The amendment appears to be lost. The amendment is lost.

The question now is on the adoption of the resolution introduced by Mr. Wiggins, providing that when the Convention adjourn on Friday of this week, it adjourn to meet at 12 o'clock noon on Wednesday of the following week. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Special orders.

General orders.

The Secretary will make the announcements.

Mr. Angell — Mr. President, I ask unanimous consent to introduce the following Proposed Amendment, as it relates to a matter which is to come up at the hearing next Tuesday.

The President — The Secretary will report the Proposed Amendment.

The Secretary — By Mr. Angell: Proposed Constitutional Amendment.

Second reading — To amend Article VII, by adding a new section relating to highways.

The President — Without objection the amendment proposed by Mr. Angell will be received out of order, and will be referred to the Committee on State Finance.

Mr. Angell — Mr. President, a resolution, or Proposed Amendment, relating to the same subject-matter, No. 31, I think introduced by Mr. Blauvelt, was referred to the Committee on Public Utilities.

The President — This may be referred to the Committee on Public Utilities with a copy to the Committee on State Finance for its information with the customary authority.

Mr. Brenner — I ask unanimous consent to introduce the following Proposed Amendment out of order.

The President — Proposition for Constitutional Amendment offered by Mr. Brenner will be received and reported by the Secretary.

The Secretary — By Mr. Brenner: Proposed Amendment to the Constitution.

Second reading — To amend Section 5 of Article I of the Constitution, in relation to arrests in civil action.

The President — Referred to Committee on Bill of Rights with copy to the Judiciary Committee.

Is there any further business to come before the Convention?

Mr. Wickersham — I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until to-morrow morning at 10 o'clock.

Whereupon, at 10:55 a. m., the Convention adjourned to meet Friday, May 28, 1915, at 10 a. m.

FRIDAY, MAY 28, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. J. Addison Jones — Almighty God, who hast made of one blood all nations of men and appointed the bounds of their habitations, and hast planted within the heart of each man a love of his own land, we thank Thee for the fair land in which our lot is cast, for the great gifts with which our nation is endowed, for the splendid records by which our nation has been enriched, and for the noble achievements which stand to the nation's honor and credit. In these days we call to grateful remembrance the daring exploits, the brave deeds and the sacrificial consecrations of the men who in other days wrought and fought to secure our liberties and to preserve our Union. May the example of their heroism animate our souls in each call to service. May we be ready to spend and be spent for the promotion of the common good. Endue our counselors with wisdom, our leaders with skill, our soldiers and sailors with strength and courage, and so overrule in these troublous times that justice may prevail over wrong, peace over strife, and brotherhood over all ignoble passions and unworthy ambitions, and to Thee, Oh God of our fathers, who hast established our government and vouchsafed Thy help in every time of trouble, we will give praise and honor and glory forever more, Amen.

The President — Are there any amendments to be made to the Journal of day before yesterday as printed and distributed? There being no amendments proposed the Journal stands approved as printed.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Stimson — Mr. President, I offer the following resolution and ask that it be referred to the Committee on Contingent Expenses.

The Secretary — By Mr. Stimson: Resolved, That whenever the attendance of witnesses who reside out of the State of New York is desired by any standing committee, the Committee on Contingent Expenses shall have power in its discretion to authorize the payment of the traveling expenses of such witness.

The President — Without objection referred to the Committee on Contingent Expenses.

Mr. Tanner — I wish to make the following motions relating to amendments which were referred to the Committee on Conservation and Natural Resources. These I have taken up with the chairman of that Committee and they are satisfactory.

Proposed Amendment No. 121, introduced by Mr. Baldwin, and referred to the Committee on the Governor and Other State Officers. I ask that a copy of that bill be referred to the Committee on Conservation and Natural Resources for their information and opinion.

The President — Without objection that order will be made.

Mr. Tanner — Proposed Amendment No. 220, introduced by Mr. Bunce. I ask that a copy of that Proposed Amendment should be sent to the Committee on the Governor and Other State Officers, with opinion from the Committee on Natural Resources and Conservation, as to regulations recommended by the University of the State of New York to be approved by the Governor. That is consented to, I believe, by Mr. Dow.

Mr. Bunce — Mr. President, I would be glad to have that done.

The President — Without objection that order will be made.

Mr. Tanner — Proposed Amendment No. 129, introduced by Mr. Austin. I ask that it be referred to the Committee on the Governor and Other State Officers, so far as it relates to the formation of the department as a constitutional office, and so far as it relates to the appointment of the commissioner and his removal.

The President — The Secretary asks whether the numbers are the introductory numbers or not?

Mr. Tanner — These are the introductory numbers.

The President — Is there objection to that reference? The Chair will call Mr. Austin's attention to the change in reference requested by Mr. Tanner.

Mr. Austin — Mr. President, I understand it is still to remain within the jurisdiction and under the consideration of the Conservation Committee, that is, the subject-matter.

Mr. Tanner — Yes, and I only ask that that part be referred to my Committee which deals with making this a constitutional office and the appointment and removal of the commissioner.

Mr. Austin — Perfectly satisfactory.

The President — The effect of that procedure would withdraw from the Committee on Conservation that part of the Proposed Amendment, and only one Committee can have possession of a bill and the jurisdiction over it.

Mr. Tanner — Yes, and I think the primary jurisdiction should go to the Committee on the Governor and Other State Officers.

Mr. Austin — I do not want to consent to that. I think this is such an important matter, and so clearly within the purview of a subcommittee which has been appointed by the chairman of the Conservation Committee to consider the question of administration of the Conservation Department, that I am loath to consent to the custody of the bill being taken from the Conservation Commission. Of course, I bow to the decision of the Chair, or of the Convention on that point, but I do not want to consent to it.

The President — Perhaps this had better stand over until the next legislative day, and perhaps some order regarding it may be formulated.

Mr. Tanner — For the information of Mr. Austin, I might say that we have arranged for a joint session of the two Committees on this, Mr. Austin.

Mr. Austin — I have no objection whatever, Mr. Tanner, to your Committee considering this in connection with the other matters involving the work of your Committee, and I think you should. My only point is that the Conservation Committee has really only two or three subjects to consider and one of the important subjects is the question of what shall be the administration of that department, and I think that question should be considered by your Committee, too, but I think, as I stated, that I would not consent to the Conservation Committee being deprived of all authority, except to express an opinion upon it.

The President — Of course, one part of the bill could be referred to one committee and another part to another committee, but this motion, giving rise to debate, will stand over, under the rules.

Mr. Tanner — Mr. President, Introductory No. 154, introduced by Mr. Dunlap, and referred to the Committee on Conservation and Natural Resources. I ask that this should be referred to the Committee on the Governor and Other State Officers, so far as it relates to the formation of the department as a constitutional office, and the appointment of the commissioners and their removal. That, also, I have taken up with the chairman of that Committee, and Mr. Dow, I believe, consents to this disposition of it.

Mr. Brackett — Mr. President, may I ask, is it also satisfactory to the introducer of the Proposed Amendment?

Mr. Tanner — I hear nothing to the contrary, Mr. President. It is 154, introduced by Mr. Dunlap.

Mr. Brackett — I only ask as to whether or not that is satisfactory to Mr. Dunlap, because he is my neighbor geographically in the State, and he is my neighbor in the Chamber. I know nothing respecting it, but I suggest with reference to all these references, if they be changed, it ought to be with the concurrence of, or after notice to, the members who introduced it.

Mr. Tanner — I ask that stand over, as Mr. Dunlap is not here.

The President — That will stand over, under the rules.

Mr. Tanner — Mr. President, I make a similar motion as to Introductory No. 10, by Mr. C. H. Young, that it should be referred to the Committee on the Governor and Other State Officers, so far as it relates to the formation of the department as a constitutional office, and as to the power of appointment and removal.

Mr. C. H. Young — Mr. President, that is perfectly satisfactory to me.

Mr. Clinton — There seems to be an overlapping of the jurisdiction of the two Committees, but the most important subject that the Conservation Committee has to deal with is the question as to whether a constitutional office shall be created.

If the chairman of the Conservation Committee has agreed upon these different changes of reference, of course, I have nothing to say about it, but I do not think that the Conservation Committee should be deprived of jurisdiction to pass upon all these questions directly, and I think a copy should be sent to the Committee on the Governor and Other State Officers for their information, but it seems to me that the motion of the chairman of that Committee, taking the subject-matter out of our hands altogether, is too broad and sweeping; I ask that it lay over until it can be considered — I ask that it lay over under the rules.

Mr. Brackett — With a view of giving a different point of view from that of the gentleman who made this motion I make this suggestion: I think that ordinarily you will find that there will be less friction and easier work if the subject-matter of any resolution is not referred to two committees at one time; if one committee to whom it is referred shall pass upon it and make its report and then that report be referred to the other committee, I believe that in analogizing the practice of the Legislature you will have less friction than you will if you attempt to have a semi-dual or joint control by two committees over one bill.

Mr. Tanner — Mr. President, I would like to ask the Senator what would be the effect of referring such amendment with opinion? What is the jurisdiction of the committee to make its report? What power has that committee?

Mr. Brackett — If there is any wrong reference of course it should be brought to the attention of the Convention, or President, and then a proper reference made. But I am now speaking of where the original reference has been re-referred to another committee. The original committee will then of course have surrendered all jurisdiction over the bill. I am speaking only of the result which I fear will come on the motion of the gentleman from New York by attempting to have two committees have jurisdiction at the same time. It usually will make no trouble, but not always. Now I believe that every purpose he desires to be worked out will be worked out better and smoother and easier if the proper committee having the reference will make its report on that bill with the suggestion that it be referred to some other committee named, and that instead of going into general orders, as it would under the rule, that it should then go to such other committee named, at the coming in of which committee's report it will then go into general orders and we will have precisely the result desired by the gentleman from New York and at the same time we will avoid dual control and any clash that would otherwise occur.

Mr. Dow — In view of this discussion I prefer to have those bills lie over for a conference of my Committee.

The President — Motion will lie over under the rule until Wednesday.

Mr. Tanner — Mr. President, I make the same motion relative to Amendment No. 25, introduced by Mr. Whipple. Mr. Whipple is not here this morning and I ask that that go over under the rule; and I make a similar motion for similar action with reference to Amendment No. 71, introduced by Mr. C. H. Young, and No. 207, introduced by Mr. McKean, that all go over until Wednesday.

The President — The motion will stand over and the Clerk will continue the call.

Mr. Austin — Mr. President, at the suggestion of the chairman of the Committee on Legislative Powers, at a hearing held yesterday, I ask that that Committee be discharged from further consideration of Introductory No. 78, Print No. 78, and that it be amended as indicated, reprinted and referred back to the Committee; and also, inasmuch as yesterday a copy of that bill was sent for information to the Committee on the Governor and Other State Officers, I ask that a copy of the bill as reprinted be sent to that Committee.

The President — Is there objection? There being no objection the order asked for by Mr. Austin will be made.

Mr. Barnes — Mr. President, I should like to ask that the Committee on Legislative Powers be discharged from further consideration of Proposed Amendment Introductory No. 315, Print No. 319, for the purpose of amendment, reprint and recommittal.

The President — Without objection the order asked for will prevail.

Mr. Brackett — Mr. President, I have been hastily running through the rules for the provision by which the Clerk is directed to ask clergymen to officiate and open the proceedings with prayer — I do not find it in a rule but a separate resolution. I want to offer an amendment to that resolution and it is so brief that, in the absence of the rule itself, I have not prepared the amendment formally, but it is so brief I think the Clerk can take it: I want to add after the words "the city of Albany" the words "and vicinity." I ask that the Clerk take that amendment and go over the rule. I want to say that in the vicinity of Albany there are several reverend gentlemen whom I know and who I think the members of the Convention will be glad to call upon to open some of our meetings and it is with that end in view that the suggested amendment is made.

The President — The provision stands in the form of a separate resolution so it will take the form of an amendment to that resolution and will stand over.

Mr. Brackett — It is only to have the words "and vicinity" inserted.

Mr. Bunce — Mr. President, I want to suggest instead of the words "and vicinity" the words "and other places."

Mr. Brackett — Well, Mr. President, I have no objection to that, but I guess I will leave my suggestion "and vicinity" as it was made.

Mr. Bunce — Mr. President, I propose an amendment to the amendment, that we ask to have clergymen "from Albany and other places — the State of New York."

Mr. Brackett — Mr. President, there are some spots that are so remote and so obscure that they can hardly be called "places." I don't want my amendment to be cut out by any verbiage of that kind.

The President — The resolution offered by Mr. Brackett will stand over, under the rule, and as they cannot both stand over and be subject to amendment, Mr. Bunce's amendment can be saved and then framed when Mr. Brackett's resolution comes up for consideration.

Mr. Brackett — Mr. President, I suggest that after a conference with the Committee to which my amendment is referred they can report it back, further amended and a conference of that Committee will undoubtedly result satisfactorily.

While I am on my feet, I ask unanimous consent, as I am called from the Chamber, for which I am very sorry, as it is my intention to attend every meeting of this body from the start to the finish — I have been asked to propose an amendment on behalf of Senator Wagner, if I may offer it by unanimous consent in this order of business.

The President — Without objection the amendment will be received out of order and will be read.

The Secretary — By Mr. Wagner: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the State Constitution, in relation to the rights of labor.

The President — Referred to the Committee on Bill of Rights.

Mr. C. Nicoll — Mr. President, should not a copy of that be referred to the Committee on Industrial Relations?

The President — That order will be made.

The President — Proposed Constitutional Amendments. The Secretary will call the roll by districts.

Mr. Tanner — I offer the following amendment.

The Secretary — By Mr. Wickersham: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article VI, by creating a standing commission on rules of procedure in the courts of the State.

The President — Committee on the Judiciary.

The Secretary — By Mr. Tanner: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article IV of the Constitution, by extending the time in which the Governor may approve bills after adjournment.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Article II of the Constitution, in relation to the election of municipal officers.

The President — Committee on Cities, a copy to the Committee on County, Town and Village Government.

Mr. Low — Mr. President, ought not a copy to go to the Committee on Suffrage?

The President — Perhaps the reference should be to the Committee on Suffrage.

Mr. Low — I think your reference is correct; it should go to the Committee on Cities, because it relates to the method of nominating and electing city officials; it seems to me it should also go to the Committee on Suffrage.

The President — That order will be made; a copy both to the Committee on County, Town and Village Government, and the Committee on Suffrage.

Mr. Austin — I offer the following.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, Section 2, of the Constitution, relative to the powers of the State to borrow moneys in anticipation of revenues, or of the sale of bonds duly authorized by law.

The President — Committee on State Finances.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 5, of the Constitution, by abolishing the Commissioners of the Canal Fund, and providing that the duties of said commissioners shall devolve upon the Comptroller.

The President — Committee on Canals, and a copy to the Committee on the Governor and Other State Officers.

Mr. Austin — I think, if you please, Mr. President, a copy of that also should go to the Committee on State Finances.

The President — That order will be made.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 3, of the Constitution, relative to assistant superintendents and employees in the office of the Superintendent of Public Works.

The President — Committee on the Governor and Other State Officers.

Mr. Bunce — Mr. President, I offer the following amendment.

The Secretary — By Mr. Bunce: Proposed Amendment to the Constitution.

Second reading — To amend Section 17 of Article VI of the Constitution, relative to justices of the peace, by limiting the number of them that shall be elected.

The President — Committee on the Judiciary.

Mr. Bunce — I introduced Proposed Amendment No. 175, and after a hearing before the Committee on the Judiciary, and a conference with Delegate Pelletreau of Patchogue, and consulting the Legislative Manual and the census returns therein contained, I am satisfied that my Proposition No. 175 would work an injustice upon large towns in Nassau and Rockland and Westchester counties, and I desire that the amendment that I have now proposed take the place of and be substituted for No. 175, and I move that be done.

The President — The Convention cannot deal with that subject now. The application should be made, in the first instance, to the Committee which is now in possession of No. 175 and the amendment now introduced will be referred to that Committee which will doubtless make the substitution referred to.

Mr. Mandeville — I offer the following Proposed Amendment.

The Secretary — By Mr. Mandeville: Proposed Amendment to the Constitution.

Second reading — To amend Sections 11, 13 and 15 of Article VIII of the Constitution, and to repeal Section 12 of Article VIII and Section 4 of Article V of the Constitution, relative to the establishment of a State Board of Charities and Corrections and the appointment and powers and duties of such board.

The President — Committee on the Governor and Other State Officers with a copy to the Committee on Charities.

Mr. Sears — I offer the following proposals.

The Secretary — By Mr. Sears: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, to provide for the establishment of uniform courts of limited jurisdiction in all the cities of the State, except the city of New York.

The President — Committee on the Judiciary.

The Secretary — By Mr. Sears: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to criminal cases, so as to provide for trial upon information of a district attorney in certain cases.

The President — Committee on Bill of Rights, with a copy to the Judiciary Committee.

The Secretary — By Mr. Sears: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article I of the Constitution, in relation to the waiver of trial by jury in criminal cases.

The President — The same reference, Committee on Bill of Rights, with a copy to the Judiciary Committee.

The Secretary — By Mr. Dow: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VII of the Constitution, generally, in relation to forests and waters of the State.

The President — Committee on Conservation.

Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business on general orders.

Mr. Wickersham — I offer the following resolution and move its adoption, and I ask unanimous consent for its immediate consideration.

The Secretary — By Mr. Wickersham: Resolved, That the title of the office of assistant sergeant-at-arms, created by resolutions heretofore adopted, be changed to that of special executive secretary, and be it further

Resolved, That Maurice Bloch be and he hereby is appointed to the position of special executive secretary at the same compensation as that provided for the assistant sergeant-at-arms, namely, \$5 per day.

Mr. Unger — Mr. President, at the request of my Democratic colleague, Senator Wagner, I rise to second that motion.

The President — Are you ready for the question upon the resolution? All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Special orders.

General orders.

The Chair hands down papers in the nature of memorials; one from the Albany Society of Civil Engineers, to be referred to the Committee on the Governor and Other State Officers, and one from the South Bronx Property-Owners' Association, which will be referred to the same Committee.

The Secretary will make the announcements.

Mr. Wickersham — I move we adjourn, Mr. President.

The President — It is moved that we do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 12 o'clock, noon, on Wednesday next.

Whereupon, at 10:40 a. m., the Convention adjourned to meet at 12 o'clock, noon, Wednesday, June 2, 1915.

WEDNESDAY, JUNE 2, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, Our Heavenly Father, whose mercy makes each morning a new beginning of opportunity, we thank Thee for the days of gracious privilege, of high enrichment and of useful service allotted unto us, and we ask that Thou wilt grant unto us the guidance of Thy Holy Spirit, that we may do with our might whatsoever our hands find to do. Clarify our thoughts, correct our impulses and direct our activities so that in the rectitude of our whole life we may day by day rise to higher levels of experience and effectiveness. In these days when great responsibilities are pressing upon the hearts and minds of those who determine the policies of our nation, we especially invoke Thy blessing upon Thy servant, the President of the United States, and all who take counsel with him. Grant them the spirit of wisdom and understanding that they may see clearly the way that is right and grant unto them courage that they may walk steadfastly in the way that is right, and grant, we beseech Thee, that reason and justice and considerations of humanity may prevail without resort to force. Grant unto Thy servants, the members of this Convention, strength and wisdom for this day's duties, that the day may be begun, continued and ended in Thee, and to the good of our Commonwealth, for Thy Name's sake, Amen.

The President — Are there any amendments to the Journal as printed and distributed? There being no amendments the Journal will stand approved as printed.

Presentation of memorials.

The Chair hands down a communication to the Convention in the nature of a memorial from the members of the Triumph Hose Company, No. 1, of the village of Homer, which will be referred to the Committee on Civil Service.

Also a memorial from William S. Meyer, which will be referred to the Committee on Suffrage.

Also a memorial from the Religious Society of Friends, which will be referred to the Committee on Military Affairs.

Also a memorial from the Empire State Campaign Committee of the Woman's Suffrage Association, which will be referred to the select committee in charge of the celebration of the 700th anniversary of the Magna Charta.

Are there any other memorials?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Baldwin — Mr. President, I move that the Committee on Bill of Rights be discharged from further consideration of Proposition No. 248, Introductory No. 251, that it be amended as indicated, reprinted and recommitted.

The President — Is there any objection to that order? There being no objection the order will be made.

Mr. Tanner — Mr. President, with relation to my motions made on Friday, regarding amendments, Introductory Nos. 129, 154, 10, 25, 71 and 207, I ask unanimous consent to amend those motions by sending a copy of these Proposed Amendments to the Governor and Other State Officers Committee with authority to express such opinion as it may deem wise, and I wish to take this occasion to say, Mr. President, that the object in making those motions on Friday was not to oust any other committees of jurisdiction, but merely to preserve the right to the Committee on the Governor and Other State Officers to express their opinion at a proper time.

I think there is no objection to that. I think the chairmen of the Committees affected by these motions concur in them.

The President — Is there any objection to the making of the order asked by the chairman of the Committee on the Governor and Other State Officers? There being no objection, the order is made in respect of the several Proposed Amendments indicated by him.

Mr. Barnes — Mr. President, I should like to offer a resolution, if in order, and ask for its adoption. At the meeting of the Committee on Legislative Powers and Limitations last week, it was discovered that there was no rule of the Convention in relation to the reports of committees as to whether a majority of a quorum might report, or whether it required a majority of the whole committee. And, therefore, I propose this resolution, which I will ask the Clerk to read, and which I think will meet with the approval of the entire Convention.

The Secretary — By Mr. Barnes: Resolved, That Chapter 6 of Rule 16 be amended so as to read as follows: After the word "Convention" insert the following: "No favorable or adverse report by any committee relating to Proposed Constitutional Amendments shall be made except upon a majority vote of all the members thereof."

Mr. Barnes — I don't know whether it is in order to ask unanimous consent on this question, but I suppose unanimous consent is always in order.

Mr. Parsons — Is that the Committee on Rules?

The President — Under the rules, this resolution would have to be referred to the Committee on Rules. Unanimous consent

is asked for its present consideration, however. That may be done by unanimous consent.

Mr. Whipple — Mr. Chairman, it is so obviously proper I think unanimous consent ought to be given. No resolution ought to be reported except on the majority of the committee.

Mr. Parsons — Mr. President, there may be some question about the wording of the amendment, and I would therefore suggest it go to the Committee on Rules.

Mr. Barnes — My only object in asking unanimous consent was that this is the beginning of a legislative week, and possibly reports may be in order, and there ought to be a rule of some kind adopted in relation to the matter. But, of course, if there is objection, it goes to the Rules Committee.

The President — We will refer the resolution to the Committee on Rules, and the Committee on Rules will meet immediately upon the adjournment to-day.

Mr. Mereness — Mr. President, I have been informed by the Committee on Legislative Powers that No. 36 was not properly drafted, and I desire to move a discharge from further consideration by the Committee, and I would like to resubmit the matter in its proper form. It has been prepared by Mr. Rude in the Revision Room.

The President — That would be the next order of business.

Mr. Mereness — The introduction of the substitute?

The President — Yes.

Mr. Mereness — Well, the motion to discharge the Committee I think is proper now, is it, or later?

The President — I think that should come later in the order of business.

Mr. Mereness — Well, it has been offered similar to a similar matter that was brought up a few minutes ago, and the substitute was resubmitted.

The President — It will have to be printed as a new Proposed Amendment.

Mr. Mereness — Well, the motion, then, to discharge the Committee at this time is not proper?

The President — Yes.

Mr. Mereness — Well, then, I make that motion and will resubmit the matter in proper form under the other order of business, if that is proper.

The President — Without objection, the Committee will be discharged from the further consideration of the Proposed Amendment No. 36, and consideration of that amendment will be indefinitely postponed. The Secretary will proceed.

Mr. Wickersham — I rise to a point of information. If the Committee is discharged from the consideration of the amendment, what happens to the amendment?

The President — The amendment is indefinitely postponed.

Mr. Wickersham — Well, can an amendment be hung up in that way? Must it not be put before the Committee of the Whole?

The President — That is the sentence of death: the amendment is gone.

Mr. Wickersham — Can an amendment be in that position? Must it not either be in the possession of the Committee, or in Committee of the Whole, or be withdrawn?

The President — When the Committee was discharged from further consideration, that brought the amendment back into the Convention. It has been indefinitely postponed. That disposes of it permanently.

Mr. Wickersham — Excuse me, Mr. President, for pressing it, but I think a Proposed Amendment must be somewhere; if it is on the table that is one thing —

The President — It is not on the table.

Mr. Wickersham — Very well. But it must be withdrawn, or must go to the Committee?

The President — It has been indefinitely postponed, a customary parliamentary method of killing a bill.

Mr. Wickersham — I have no objection to killing it, I only want it done in order.

The President — It is dead.

Mr. Whipple — Mr. President, I hope I may be pardoned for rising on a matter of this kind, but I think the motion was not stated as the member meant it. He moved to discharge the Committee for the purpose of amending the resolution as handed up to be amended, reprinted and recommitted. That is the motion and that is in order, under this order, as I understand it. He did not quite state it. As I understand it, the proposition is to discharge the Committee, to amend, reprint and recommit. That motion is in order, now, I think.

The President — The Clerk will proceed with the roll.

Mr. L. M. Martin — Mr. President, in relation to Mr. E. E. Lewis, one of our doorkeepers, called home last week on account of the death of his mother, I wish to present his case to the Convention in the form of a resolution.

The Secretary — By Mr. L. M. Martin: Resolved, That the absence of doorkeeper E. E. Lewis, from May 25th to 28th, inclusive, be excused and time allowed on account of illness and death in his family.

Mr. L. M. Martin — I will say, Mr. President, that Mr. Lewis telegraphed last Tuesday to obtain leave of absence which was unavoidable on his part.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The President — Proposed Constitutional Amendments. The Secretary will call the roll of districts.

Mr. Steinbrink — Mr. President, this is offered at the request of the Superintendent of State Hospitals for the Insane and the State Hospital Commission.

The Secretary — By Mr. Steinbrink: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article VIII of the Constitution, in relation to the duties and powers of the State Commission in Lunacy.

The President — Referred to the Committee on Charities, with a copy to the Committee on the Governor and Other State Officers.

Mr. Dahm — Mr. President, I offer the following.

The Secretary — By Mr. Dahm: Proposed Constitutional Amendment.

Second reading — To amend Article II, Section 1, in relation to time of residence.

The President — Committee on Suffrage.

Mr. Mann — I offer the following.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article XII of the Constitution, in relation to legislative bills affecting counties within a city.

The President — Committee on Cities.

The Secretary — By Mr. Mann: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article XII of the Constitution.

The President — Committee on Cities.

Mr. Baldwin — Mr. President, I offer the following.

The Secretary — By Mr. Baldwin: Proposed Constitutional Amendment.

Second reading — To amend Section 7 of Article VII of the Constitution, in relation to the Forest Preserve and the creation of a Conservation Commission, and defining its powers and duties.

The President — Committee on Conservation and Natural Resources.

Mr. Foley — Mr. President, I offer the following.

The Secretary — By Mr. Foley: Proposed Constitutional Amendment.

Second reading — To amend Section 19 of Article I of the Constitution, in relation to workmen's compensation.

The President — Committee on Industrial Relations and Interests, with a copy to the Committee on Bill of Rights. I think that is the disposition which has been made of somewhat similar amendments.

Mr. Wickersham — I offer the following, by request.

The Secretary — By Mr. Wickersham, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 14 of Article VI of the Constitution, in relation to County Courts, the City Court of the city of New York, and the Court of General Sessions in the county of New York, and creating the Superior Court of the city of New York.

The President — Committee on the Judiciary.

Mr. Low — Mr. President, may a copy be sent to the Committee on Cities?

The President — Without objection, that order will be made.

Mr. M. Saxe — Mr. President, I offer the following proposal.

The Secretary — By Mr. M. Saxe: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article X of the Constitution, in relation to the appointment or election of officers not provided for by the Constitution.

The President — Committee on County, Town and Village Government.

Mr. Mereness — Mr. President, I offer the following.

The Secretary — By Mr. Mereness: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to the compensation of public officers, servants, agents and contractors.

The President — Committee on Legislative Powers.

Mr. Tanner — Mr. President, I ask that a copy be sent to the Committee on the Governor and Other State Officers for its information.

The President — Without objection that order will be made.

The Secretary — By Mr. Mereness: Proposed Constitutional Amendment.

Second reading — To amend Articles III, VI, V and X of the Constitution, in relation to the compensation of public officers, servants, agents and contractors.

The President — Committee on Legislative Powers, with a copy to the Committee on the Governor and Other State Officers.

Mr. Angell — Mr. President, I offer the following.

The Secretary — By Mr. Angell: Proposed Constitutional Amendment.

Second reading — To amend Section 18 of Article VI of the Constitution, so as to extend the jurisdiction of inferior local courts.

The President — The Committee on the Judiciary.

Mr. Dunmore — Mr. President, I offer the following.

The Secretary — By Mr. Dunmore: Proposed Constitutional Amendment.

Second reading — To amend Article II of the Constitution, in relation to conditions affecting the submission by the Legislature of any constitutional amendment extending the right of suffrage.

The President — Committee on Suffrage.

Mr. Cobb — I offer the following.

The Secretary — By Mr. Cobb: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article II of the Constitution, in relation to qualification of voters.

The President — Committee on Suffrage.

The Secretary — By Mr. Cobb: Proposed Constitutional Amendment.

Second reading — To amend Section 11 of Article VI of the Constitution, in relation to the removal of judges.

The President — Committee on the Judiciary.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article IV, Sections 6 and 7, in relation to succession to the office of Governor.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to the power of the Legislature to provide for succession to the office and powers and duties of the Governor, Lieutenant-Governor, Temporary President of the Senate and Speaker of the Assembly.

The President — Committee on the Governor and Other State Officers.

Mr. Deyo — Mr. President, I offer the following.

The Secretary — By Mr. Deyo: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article I of the Constitution, in relation to gambling in stocks and commodities.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Deyo: Proposed Constitutional Amendment.

Second reading — To amend Article VIII of the Constitution, by inserting, after Section 3 of said article, a new section, to be known as Section 4, in relation to the incorporation of stock exchanges, and to renumber the succeeding sections of said article accordingly.

The President — Committee on Corporations.

Mr. Betts — Mr. President, I offer the following.

The Secretary — By Mr. Betts: Proposed Constitutional Amendment.

Second reading — To amend Articles III, VI and XII of the Constitution, in relation to the method of ascertaining the number of inhabitants of the State from time to time and to the division of the State into Senatorial and other districts on the basis of population.

The President — Committee on Legislative Organization.

Mr. Rhees — Mr. President, I offer the following amendment, by request.

The Secretary — By Mr. Rhees, by request: Proposed Constitutional Amendment.

Second reading — To amend Article I of the Constitution, in relation to the remedies for injuries caused by intoxicated persons.

The President — Committee on Bill of Rights.

Mr. Curran — Mr. President, I offer the following.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article II of the Constitution, in relation to extending the right of trial by jury to all crimes and offenses punishable by imprisonment.

The President — Committee on Bill of Rights, with a copy to the Committee on the Judiciary.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Article VIII of the Constitution, in relation to authorizing works and industries for relieving distress of unemployed and extraordinary emergencies.

The President — Committee on Industrial Relations.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to authorizing State insurance of workers against sickness, old age and unemployment.

The President — Referred to the Committee on Industrial Relations.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Article I of the Constitution, in relation to establishing an eight-hour day for labor performed directly or indirectly for the public.

The President — Referred to the Committee on Industrial Relations.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Section 2 of Article XIV of the Constitution, in relation to delegates to Constitutional Conventions.

The President — Referred to Committee on Future Amendments.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Section 6 of Article III of the Constitution, in reference to compensation of members of the Legislature.

The President — Referred to Committee on Legislative Organization.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend Article IV of the Constitution, in relation to prohibiting the establishing of a State constabulary and the use of armed forces in labor disputes, and to the exclusive power of the Governor as commander-in-chief.

The President — Referred to the Committee on Military Affairs with a copy to the Committee on Industrial Relations.

Mr. Tanner — Mr. President, I ask that a copy be sent also to the Committee on the Governor and Other State Officers for their information, with authority to express such opinion as they may deem advisable.

The President — Without objection that order will be made.

The Secretary — By Mr. Curran: Proposed Constitutional Amendment.

Second reading — To amend the Constitution, in relation to the method of selecting judicial officers.

The President — Referred to the Committee on the Judiciary with a copy to the Committee on Suffrage.

Mr. Parsons — Mr. President, I ask that a copy of Print No. 363, introduced by Mr. Wagner last Friday, be sent to the Committee on Industrial Relations for its information and expression of opinion, if desired.

The President — Is there objection? Without objection that order will be made.

Mr. M. Saxe — Before we come to the next order of business, I understood the Chair to refer the amendment which I introduced this morning affecting Section 2 of Article X to the Committee on County, Town and Village Officers but I misunderstood. I am now told that the Chair referred that proposal to the Committee on Counties, Towns and Villages and Their Organization, Government, etc. Now a similar amendment which I introduced about ten days ago was referred to the Committee on County, Town and Village Officers and I really think the reference should be made to that Committee, because this is merely in relation to local officers and not to the government of the towns.

The President — That change will be made in the reference.

Reports of standing committees.

Mr. Parsons — Mr. President, I offer the following report of the Committee on Rules as a supplementary report and move the adoption of the resolution attached.

The Secretary — By Mr. Parsons, for the Committee on Rules: Resolved, That this Convention accept as of May 28, 1915, the resignation of Sarah Pilloff as stenographer to the Committee on Industrial Interests and Relations, which resignation is dated that day, and that Ellen P. Doran be employed by this Convention as stenographer to the said Committee on Industrial Interests and Relations at a compensation of \$5 per day.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Are there any further reports of standing committees?

Reports from select committees.

Third reading.

Unfinished business in general orders.

Special orders.

General orders.

Has the Secretary any announcements?

Mr. Dennis — Mr. President, if in order I will ask that Nathan B. Sherrill be excused for the remainder of the week because of illness. He is confined to his bed.

The President — It is moved that Mr. Nathan B. Sherrill be excused for absence on account of illness. Those in favor of the motion will say Aye, contrary No. It is agreed to.

The Clerk will proceed with the announcements.

The President — The Chair has been requested to call the attention of the Convention to the fact that all members of the Convention are invited to attend a reception at the University Club, at the corner of Washington avenue and Dove street, at half-past 8 this evening. Invitations have been sent, the Chair is informed by the officers of the Club, to every member of the Convention.

This notice is desired because it is feared that in some cases invitations have failed to reach the members.

Mr. Wickersham — I move we adjourn.

The President — It is moved that we do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock a. m. on Thursday, June 3, 1915.

Whereupon, at 12:50 p. m., the Convention adjourned to meet at 10 o'clock a. m., Thursday, June 3, 1915.

THURSDAY, JUNE 3, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Walton W. Battershall.

Rev. W. W. Battershall — Let us pray. Most gracious God, we humbly beseech Thee as for the people of these United States in general, so especially for the members of this Constitutional Convention here assembled, that Thou would'st be pleased to direct and prosper all their consultation, to the advancement of Thy glory, the good of Thy church, the safety, honor and welfare of Thy people, that all things may be so ordered and settled by their endeavors upon the best and surest foundation, that peace and happiness, truth and justice, religion and piety may be established among us for all generations. These and all other necessities for them, for this nation and all the nations of the world, we humbly beg in the Name and mediation of Jesus Christ, our most blessed Lord and Saviour.

The grace of our Lord Jesus Christ and the love of God and the fellowship of the Holy Ghost be with us all evermore, Amen.

The President — Are there any amendments to be offered to the Journal as printed and distributed? There being no amendments, the Journal stands approved as printed.

Presentation of memorials. The Chair hands down to the Convention a memorial from the Legislative Index Publishing Company regarding the proposal made by them to furnish a record of the proceedings of the Convention to the members of the Convention. Under the rule it will be referred to the Committee on Contingent Expenses.

Are there any other memorials or petitions?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Clearwater — I offer the following.

The Secretary — By Mr. Clearwater: Resolved, That the recommendations submitted by the New York State Bar Association for the consideration of the Convention, and the report of the Committee of Fifteen of that Association, on proposals to be laid before the Convention, with the note accompanying the same, heretofore presented as memorials, be printed as documents.

Mr. Wickersham — That should go to the Committee on Contingent Expenses, I think.

The President — Under the rule, the resolution will be referred to the Committee on Contingent Expenses.

Mr. E. N. Smith — Mr. President, I ask that the Proposed Amendment No. 55, introduced by Mr. R. B. Smith and referred to the Committee on Bill of Rights, be sent to the Committee on Conservation of Natural Resources for its information and with authority to report its opinion.

The President — Unless there be objection that order will be submitted.

Mr. E. N. Smith — I ask the same disposition to be made of amendment Print No. 21, introduced by Mr. Baldwin and referred to the Committee on the Governor and Other State Officers.

The President — That order will be made unless there be objection.

Mr. E. N. Smith — And the same disposition be made of amendment Print No. 352, introduced by Mr. Bunce and referred to the Committee on Bill of Rights.

Mr. Bunce — I introduced it and I consent that that be done.

The President — Without objection the same order will be made.

Mr. E. N. Smith — And the same disposition be made of Proposed Amendment, Print No. 406, introduced by Mr. Baldwin and referred to the Committee on Bill of Rights.

The President — Without objection the same order will be made.

Mr. R. B. Smith — I offer the following.

The Secretary — By Mr. R. B. Smith: Resolved, That the Committee on Bill of Rights be discharged from the further consideration of Proposed Constitutional Amendment, Print No. 55, Introductory No. 55, introduced by Mr. R. B. Smith, entitled "Proposed Constitutional Amendment. To amend Article I of the Constitution, in relation to the public uses for which private property may be taken and the assessment of damages sustained in certain cases." That said Proposed Constitutional Amendment be amended as follows: Page 1, line 5, after the word "waters," insert ";" and strike out "and". Page 1, line 7, after "utilities," insert ";" the transmission of electricity," which

said Proposed Constitutional Amendment as amended to be reprinted and when reprinted to be recommitted to the Committee on Bill of Rights.

The President — Without objection the order will be made.

Mr. E. N. Smith — Mr. President, may I ask that a copy of this amended bill be also sent to the Committee on Conservation?

The President — The copy of the amended bill will go under the order as originally. Without objection the order asked by Mr. E. N. Smith will be made.

Mr. Cobb — Mr. President, in behalf of Mr. S. K. Phillips who is absent, I move to discharge the Judiciary Committee from consideration of Proposal Print No. 77, to amend the same as indicated, reprint and recommit to the Judiciary Committee.

The President — Is there objection to the order? Without objection the Proposed Constitutional Amendment is amended as indicated and recommitted to the same Committee.

Mr. Betts — I offer the following.

The Secretary — By Mr. Betts: Resolved, That the Secretary be authorized and directed to request the Superintendent of Public Buildings to place a table and chairs in each Committee room where important hearings are to be held, for the use and convenience of the official reporters of this Convention, and that the Secretary also be authorized and directed to instruct the superintendent of documents to furnish each official reporter, on application, one copy of the Proposed Constitutional Amendments and such other documents as they may require to intelligibly and accurately write up and report to their respective newspapers a synopsis of the proceedings of this Convention, and after the final adjournment of this Convention the Secretary is hereby authorized to distribute from the surplus stock provided for by Rule 71 one copy of the original bound record to each official reporter in the same manner that such records are to be distributed to the members of this Convention.

Mr. Betts — Mr. President, in view of the fact that this requires no additional expense, I am sure that every member of this Convention will be in favor of extending this very proper courtesy and consideration to the representatives of the Press and, therefore, I ask unanimous consent that the resolution be considered at this time. I move the adoption of the resolution.

The President — Is there objection to the present consideration of the resolution?

The President — The Chair hears no objection to the present consideration of the resolution. The resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Westwood — I move to discharge the Committee on Bill of Rights from further consideration of Proposal, Print No. 116, and to amend the same as indicated; that the amended Proposal be reprinted and recommitted to that Committee.

The President — Is there any objection to the order proposed? The Chair hears none, and without objection the order will be made.

Propositions for Constitutional Amendment.

The Secretary will call the roll of districts.

Mr. Coles — I offer the following Proposed Amendment.

The Secretary — By Mr. Coles: Proposed Constitutional Amendment.

Second reading — To amend Section 5 of Article III of the Constitution, in relation to the annexation of a portion of the territory of one county to another county.

The President — Referred to the Committee on Legislative Organization.

Mr. Adams — I offer the following, by request.

The Secretary — By Mr. Adams, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 22 of Article VI, in relation to terms of offices of justices of the peace and local judicial officers.

The President — Committee on the Judiciary.

Mr. Bannister — I offer the following.

The Secretary — By Mr. Bannister: Proposed Constitutional Amendment.

Second reading — To amend Section 3 of Article XI of the Constitution, in relation to providing for aerial forces in the militia.

The President — Committee on Military Affairs.

Mr. Latson — I offer three Proposed Amendments, two of which are offered by request.

The Secretary — By Mr. Latson: Proposed Constitutional Amendment.

Second reading — To amend Article VI of the Constitution, in relation to the jurisdiction of the Supreme Court, by extending such jurisdiction over claims against the State, and by creating a branch of the Supreme Court to be known as the Claims Division, and by abolishing the Court of Claims.

The President — Committee on the Judiciary.

The Secretary — By Mr. Latson, by request: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article IX, in relation to the maintenance and support of a system of free common schools.

The President — Committee on Education, and a copy to the Committee on Cities.

The Secretary — By Mr. Latson, by request: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, in relation to the establishment of a State Department of Engineering and Public Works, and the devolution thereon of powers and duties of certain public boards and officers.

The President — Committee on the Governor and Other State Officers, with a copy to the Committee on Canals.

Mr. Parsons — I offer the following.

The Secretary — By Mr. Parsons: Proposed Constitutional Amendment.

Second reading — To amend Article I, Section 19, of the Constitution, by omitting a portion thereof, and adding a new section, in relation to legislation affecting employees.

The President — The Chair is under the impression that somewhat similar amendments have been referred to the Committee on Industrial Relations, and a copy to the Legislative Powers Committee. If there is no other suggestion, that disposition will be made of this Proposed Amendment.

The Secretary — By Mr. Parsons: Proposed Constitutional Amendment.

Second reading — To amend Article I, Section 18, in relation to damages for injuries resulting in death.

The President — Committee on Bill of Rights, and a copy to the Committee on Industrial Relations.

Mr. Parsons — Mr. President, may I ask that that reference be reversed, and it be sent to the Committee on Industrial Relations, and a copy to the Committee on Bill of Rights? It takes out from the present Section 19, which is the section which contains the workmen's compensation provision, and inserts it in Section 18.

The President — In the absence of the chairman of the Bill of Rights Committee, that reference will be made.

The Secretary — By Mr. Parsons: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in regard to the power of the Legislature to prohibit manufacturing in structures used for dwelling purposes.

The President — Committee on Legislative Powers.

Mr. Parsons — A somewhat similar proposition was referred to the Committee on Industrial Relations. This proposition differs slightly in language from the one introduced by Mr. A. E. Smith,

and referred to the Committee on Industrial Relations, and, therefore, I ask it be referred to the Committee on Industrial Relations, and a copy be sent to the Committee on Legislative Powers.

The President — If there is no objection, that reference will be made.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article I, Section 19, of the Constitution, in relation to social insurance, including workmen's compensation.

The President — The Chair will ask if Mr. Parsons suggests a reference? I suppose this takes the same course. Referred to the Committee on Industrial Relations with a copy to the Committee on Legislative Powers.

Mr. F. Martin — Mr. President, I offer the following.

The Secretary — By Mr. F. Martin: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, Section 2, in relation to first judicial department.

The President — Referred to the Committee on the Judiciary.

Mr. C. H. Young — Mr. President, I offer the following.

The Secretary — By Mr. C. H. Young: Proposed Amendment to the Constitution.

Second reading — To amend Section 14, Article VI, of the Constitution, in relation to County Courts and the City Court of the city of New York.

The President — Referred to the Committee on the Judiciary.

Mr. Low — Mr. President, may a copy be sent to the Committee on Cities?

The President — Without objection that order will be made.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Section 10, Article VIII, of the Constitution, requiring the sinking fund for the payment of city debts.

Mr. Wiggins — Mr. President, in connection with that amendment I may say that the Committee on Cities is gathering data on that subject and that I would suggest it be referred to the Committee on Cities as it pertains to that subject most exclusively.

The President — That reference will be made and a copy will be sent to the Committee on County, Town and Village Government.

Mr. Barnes — Mr. President, I offer the following.

The Secretary — By Mr. Barnes: Proposed Constitutional Amendment.

Second reading — To amend Article XIV of the Constitution, relating to amendments of the Constitution, how proposed, voted upon and ratified.

The President — Referred to the Committee on Future Amendments.

Mr. Dunlap — Mr. President, I offer the following.

The Secretary — By Mr. Dunlap: Proposed Amendment to the Constitution.

Second reading — To amend Section 5 of Article III of the State Constitution, relating to apportionment of Assemblymen and creation of Assembly districts, by striking out the words "but the Legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties."

The President — Referred to the Committee on Legislative Organization.

Mr. R. B. Smith — Mr. President, I offer the following.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 14 of Article VI of the Constitution, in relation to the jurisdiction of County Courts.

The President — Referred to the Committee on the Judiciary.

Mr. Wadsworth — Mr. President, I offer the following amendments.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article V, Section 2, in relation to the election of the Attorney-General and his term of office.

The President — To the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article V, by adding a new section, in relation to the duties of the Comptroller and the appropriation of the public funds.

The President — The Committee on Legislative Powers.

Mr. Wadsworth — I should think that would go to the Committee on Finance.

The President — To the Committee on State Finance, yes.

Mr. Tanner — I should like to have a copy of that sent to the Committee on the Governor and Other State Officers.

The President — That order will be made.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 2, in relation to the election and term of office of Senators and members of the Assembly.

The President — To the Committee on Organization.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article X, Section 6, in relation to the political year and legislative term.

The President — To the Committee on Legislative Organization.

The Secretary — By Mr. Wadsworth: Proposed Amendment to the Constitution.

Second reading — To amend Article IV, Section 1, in relation to the election and term of office of the Governor and Lieutenant-Governor.

The President — To the Committee on the Governor and Other State Officers.

Mr. Curran — Mr. President, I offer the following.

The Secretary — By Mr. Curran: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the power of the court with respect to declaring statutes unconstitutional.

The President — To the Committee on the Judiciary.

The Secretary — By Mr. Curran: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to laws for the protection of employees.

The President — Committee on Industrial Relations, with a copy to the Committee on Legislative Powers.

Mr. Reeves — Mr. President, I want to suggest that a number of amendments of that character have already been sent to the Committee on Bill of Rights, and that that kind of amendment should go there or at least a copy of it should be sent.

The President — Well, the particular reference, then, will be to the Committee on Industrial Relations, a copy to the Committee on Bill of Rights.

The Secretary — By Mr. Curran: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article I of the Constitution, in relation to the writ of habeas corpus and the powers of military courts.

The President — The Committee on Bill of Rights.

Mr. Latson — Mr. President, may a copy of that be sent to the Committee on Militia and Military Affairs?

The President — That order will be made.

Mr. Westwood — Mr. President, I offer a proposal.

The Secretary — By Mr. Westwood: Proposed Amendment to the Constitution.

Second reading — To amend Article III, by adding a new section providing that no real property whatsoever except that of the United States shall hereafter be exempt from taxation.

The President — To the Committee on Taxation.

Mr. Low — Mr. President, I ask that copies of amendments Nos. 385, 386 and 387, Introductory Nos. 378, 379 and 380, be sent to the Committee on Cities.

The President — Without objection, that order will be made.

Mr. Stimson — Mr. President, I ask that a copy of amendment No. 330, Introductory No. 326, introduced by Mr. R. B. Smith, and referred to the Committee on Legislative Powers, be sent to the Committee on State Finances.

The President — Without objection the order will be made.

Reports of standing committees.

Mr. Barnes — Mr. President, I would like to ask that this bill be amended as indicated in the paper and referred back to the Committee on Legislative Powers.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. R. B. Smith, No. 292, Introductory No. 289, entitled "A Proposed Constitutional Amendment. To amend Section 28 of Article III of the Constitution, in relation to the granting of extra compensation by the Legislature and other legislative bodies," reported the same with the following amendment, and requests that said proposal be reprinted and recommended to said Committee.

The President — Is there objection? Without objection, that order will be made.

Mr. Barnes — Bill No. 225, our Committee feels, should have been referred to the Committee on the Governor and Other State Officers. Introduced by Mr. Pelletreau. And I should like to have the Chair refer that bill to the Committee on the Governor and Other State Officers, instead of the Committee on Legislative Powers, if he considers it a wrong assignment.

The President — Is there objection to that change of reference? Without objection, the change will be made. The Committee on Legislative Powers is discharged from further consideration, and the Proposed Amendment referred to the Committee on the Governor and Other State Officers.

Mr. Latson — Mr. President, I draw attention to Bill No. 266, Introductory No. 263, which was referred to the Committee on Civil Service, and is designed, among other things, to give to

members of the National Guard and Naval Militia certain preferences. I request that a copy of that bill be sent to the Committee on Militia with authority to submit a report with reference to that branch of the bill.

The President — Without objection, that order will be made. Any further reports of standing committees?

Mr. S. K. Phillips — Mr. President, the Committee on Contingent Expenses move the adoption of the following resolution.

The Secretary — The Committee on Contingent Expenses reports back the resolution offered by Mr. Stimson, May 27th, providing for the payment of the traveling expenses of witnesses residing outside of the State of New York, with the recommendation that it be adopted.

The Secretary — By Mr. Stimson: Resolved, That whenever the attendance of witnesses who reside outside of New York is desired by any standing committee, the Committee on Contingent Expenses shall have power in its discretion to authorize the payment of the traveling expenses of such witnesses.

The President — Is there objection to the present consideration of the report? All in favor of the adoption of the resolution will say Aye, contrary No. Motion carried.

Any further reports from standing committees?

Reports of select committees.

Unfinished business in general orders.

Special orders.

General orders.

The Secretary will make announcements.

Any further business to come before the Convention?

Mr. T. F. Smith — I would like to offer the following resolution.

The Secretary — Whereas, This Convention has learned with deep regret of the death of Frank E. Vaughn and Jacob C. Knauer, who for a number of years represented some of our leading newspapers in the Legislature and the Convention; therefore, be it

Resolved, That when this Convention adjourns, that it adjourn out of respect to the memory of the deceased.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Motion to adjourn is in order.

Mr. Wickersham — I move the Convention adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until to-morrow morning at 10 o'clock.

Whereupon, at 10:45 a. m., the Convention adjourned to meet Friday morning, June 4, 1915, at 10 o'clock.

FRIDAY, JUNE 4, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. V. Moldenhawer.

The Rev. J. V. Moldenhawer — Oh God, our Father, we thank Thee that Thou hast called us into Thy service and we pray Thee that Thou wilt teach us in whatsoever place Thou hast given us to serve to regard the high interests of Thy kingdom, which is the good of mankind. Bless these Thy servants that Thou hast called to make laws by which we may the better seek the great ends of life. May they be helped by Thy Spirit to do these things for Thy kingdom and the good of all mankind, Amen.

The President — Are there any amendments to the Journal as printed and distributed? If there are no amendments, the Journal is approved as printed.

Presentation of memorials. Are there any memorials or petitions? The Chair has a communication in the nature of a memorial from the Professional Engineers of Rochester, which is referred to the Committee on the Governor and Other State Officers; also a memorial or a paper in the nature of a memorial, from the board of supervisors of Herkimer county, which will be referred to the Committee on Public Utilities.

Mr. Bunce — Mr. President, did you say something about Herkimer county?

The President — There was a communication from the board of supervisors of Herkimer county.

Mr. Bunce — With relation to making an appropriation or money appropriated for building highways?

The President — The Secretary will read the communication.

Mr. Bunce — I did not ask that it be read; I just wanted to know if that was it.

Mr. Brackett — I did not quite catch the remarks of the Chair in referring the first paper that was handed down. May I inquire if that was a protest against the short ballot? I thought if it was, a few kind words on that subject would be very grateful to me. If it is that, I would be glad to hear it.

The President — The Secretary will read both papers.

Mr. Brackett — Not unless it bears on the short ballot and is against that proposition.

The Secretary — Resolved, That the board of supervisors of Herkimer county respectfully petition the Constitutional Convention to include in the new Constitution, or in the amended Constitution which they are to submit to the people, a provision which

will treat the two bond issues as a whole and provide that the entire \$100,000,000 be distributed among the counties upon the basis of one-third of the amount according to population, one-third according to area and one-third according to road mileage.

The President — Referred to the Committee on Public Utilities. The Secretary will read the other communication.

The Secretary — The Professional Engineers of Rochester, N. Y., to the New York State Constitutional Convention:

At a meeting, duly authorized and called, May 19, 1915, the Professional Engineers of Rochester, N. Y., after reviewing the suggestions of the Albany Society of Civil Engineers and those offered by a committee of engineers representing national and local professional engineering societies of New York, after considering proposals received in writing from engineers absent, and after full and free discussion by those present, it was resolved to suggest to the New York State Constitutional Convention, as the sense of the meeting, the following "Principles" and "Recommendations."

Principles. The Constitution should insure:

(a) A short ballot, making possible close scrutiny of the qualifications of all candidates and concentrated responsibility of elected officers.

Mr. Brackett — Mr. President, I would like to have that referred to the Committee on Legislative Organization, as I think we would know better what to do with it than with the reference that was made.

The President — The Chair is of the opinion that the first paper, or communication, should go to the Committee on Public Utilities. That part of it, however, might well be referred to the Committee on the Governor and Other State Officers if you so desire.

Are there any other memorials or petitions?

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the Comptroller of the State of New York in response to an inquiry, or pursuant to a resolution of the Convention.

Unless some other disposition is requested, it will be referred to the Committee on State Finances.

Mr. Wickersham — Mr. President, I move that the question as to whether or not it shall be printed as a document be referred to the Committee on Contingent Expenses. I make that motion, Mr. President, because of several inquiries which have been made respecting the printing of inquiries and responses of a similar character, pursuant to resolutions requesting the information, and there is no standing rule on the subject and I understand

that all printing must be ordered by the Committee on Contingent Expenses; and in order to save time, therefore, I suggest that the question of printing this document be referred to that Committee.

The President — There has been no motion made to print the document. The Chair will state for the information of the Convention that the document has been referred to the Committee on State Finances and the motion is made to print that document. That motion would go to the Committee on Contingent Expenses.

Mr. Wickersham — Then, Mr. President, I make that motion, to print, and I ask that it be referred to the Committee on Contingent Expenses.

The President — Mr. Wickersham moves that this document be printed and, under the rules, that motion is referred to the Committee on Contingent Expenses.

Are there any further communications from the Governor and other State officers?

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Tanner — I move that copies of Proposed Amendments, Introductory Nos. 13, 211 and 221, be sent to the Committee on the Governor and Other State Officers, with leave to express such opinion as they may deem advisable.

The chairman of the Committee on State Finances, to which these amendments were referred, consents, I understand, to such reference.

The President — Without objection that order will be made.

Mr. Bunce — Mr. President, I make the following motion, and ask for the unanimous consent of the Convention that it be considered immediately.

The Secretary — Mr. Bunce moves that the resolution offered by Mr. S. K. Phillips, on the 22d day of April, 1915, that the daily sessions of this Convention be opened with prayer, and which was agreed to by the Convention, be amended by striking out the words, "of the city of Albany in charge of parishes."

The President — Is there any objection to the present consideration of the resolution, or the motion? The Chair hears none, and the resolution is before the Convention. Is the Convention ready for the question?

Mr. Brackett — Mr. President, may I ask that the resolution, as now amended, be read in full?

The President — The Secretary will read the resolution as amended.

The Secretary — Resolved, That the Secretary be requested to invite clergymen to open the daily sessions of this Convention with prayer.

The President — All in favor of the resolution as amended will say Aye, contrary No. The resolution is agreed to.

Mr. Hale — Mr. President, on behalf of the Committee on Rules, a communication in the nature of a report, or a resolution.

The Secretary — By Mr. Hale: Resolved, That in accordance with the designation heretofore made by the official stenographer, the Convention employ Elizabeth A. Smith as a general stenographer at a per diem compensation of \$4.

Mr. Hale — Mr. President, will the Clerk please read the announcement at the top of the paper, which will be explanatory?

The Secretary — To the Constitutional Convention: I hereby announce that James S. Clair, heretofore designated by me and employed by the Convention as a general stenographer, resigned such position on the 11th day of May, 1915, and that pursuant to resolution heretofore adopted, I have designated Elizabeth A. Smith as a general stenographer in place of said James S. Clair, resigned.

Dated, Albany, N. Y., June 4, 1915.

JOHN K. MARSHALL,

Official Stenographer.

Mr. Tanner — Mr. President, it seems to me, in the absence of Mr. J. S. Phillips, who is the chairman of the Committee on Minor Officers, that this should be deferred, action should be deferred, until his return on Tuesday.

The President — The understanding of the Chair is that that was a select committee, and it is no longer in existence, according to the understanding of the Chair.

Mr. Quigg — Mr. President, that certainly ought to go to the Committee on Contingent Expenses.

The President — It is the filling of a vacancy; one stenographer has resigned and the stenographer to the Convention asks that another be put in that place. Is there objection to its consideration? The Chair hears none. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Hale — A further report, which I submit for Mr. Parsons, who is not here this morning.

The Secretary — Mr. Parsons, from the Committee on Rules, to which was referred the resolution relative to amending Chapter 6, Rule 16, introduced by Mr. Barnes, reports in favor of the adoption of the same amended to read as follows:

“Resolved, That Chapter 6, Rule 16, be amended so as to read as follows: After the word ‘Convention’ insert the following

'no favorable or adverse report by any Committee upon a Proposed Constitutional Amendment shall be made except by a majority of all the members of the Committee. A minority of a Committee may express its views in a report.' "

The President — Without objection, the resolution will be considered. The Chair hears no objection. All in favor of the resolution will say Aye, contrary No. The motion is agreed to.

Mr. Standart — Mr. President, I ask that a copy of Proposal No. 283, Introductory No. 280, which has been referred to the Committee on Cities, be sent to the Committee on Taxation for its consideration.

The President — Without objection, that order will be made.

The President — Propositions for Constitutional Amendments. The Clerk will call the roll.

Mr. Sargent — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Sargent: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to the establishment of a commission to prepare and submit reforms in civil procedure.

The President — Committee on the Judiciary.

Mr. Stanchfield — For Senator Wagner, I offer the following amendment.

The Secretary — By Mr. Wagner: Proposed Constitutional Amendment.

Second reading — To amend Section 12 of Article VII of the Constitution, by providing for the payment of a proportionate part of the highway fund to certain counties, cities or towns.

The President — Unless some other suggestion is made, the Chair will refer this to the Committee on State Finances with a copy to the Committee on Public Utilities.

Mr. Hale — There are two Proposed Constitutional Amendments, which I think, from the reading of the title, are the same as that, that is to say, the subject-matter is the same, which have been referred to the Committee on Public Utilities.

The President — Then that reference may be reversed. The amendment goes to the Committee on Public Utilities and a copy to the Committee on State Finances.

Mr. Low — And a copy also to the Committee on Cities?

The President — It does not seem to affect cities except that they are a part of the State.

The Secretary — By Mr. C. Nicoll: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article V of the Constitution, so as to authorize the Legislature to extend a limited preference to appointments in the civil service to residents of this State who have been honorably discharged from the regular or volunteer military or naval forces of the United States or who have honorably completed a term of enlistment in the active militia or National Guard of the State.

The President — Committee on Civil Service.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Constitutional Amendment.

Second reading — To amend Section 9 of Article VI of the Constitution, in relation to the jurisdiction of the Court of Appeals.

The President — Committee on the Judiciary.

Mr. Heaton — Mr. President, I offer two Proposed Amendments, and one by my colleague, Mr. McKean.

The Secretary — By Mr. Heaton: Proposed Constitutional Amendment.

Second reading — To amend Article III, by inserting a new section concerning the exemption from taxation of property owned by municipalities.

The President — Committee on Taxation with a copy to the Committee on Cities and a copy to the Committee on Legislative Powers.

The Secretary — By Mr. Heaton: Proposed Constitutional Amendment.

Second reading — To amend Section 12 of Article VII of the Constitution, in relation to the improvement of highways, by providing that highways shall include the bridges which form an integral part of such highways.

The President — Committee on Public Utilities, and a copy to the Committee on State Finances.

The Secretary — By Mr. McKean: Proposed Constitutional Amendment.

Second reading — To amend Section 15 of Article VI, in relation to surrogates and surrogates' courts.

The President — Committee on the Judiciary.

The Secretary — By Mr. Meigs: Proposed Constitutional Amendment.

Second reading — To amend Article III of the Constitution, in relation to the State budget of estimated expenditures and the enactment of appropriation laws.

The President — Committee on State Finances.

Mr. Tanner — May I ask that a copy be sent to the Committee on the Governor and Other State Officers.

The President — That order may be made.

The Secretary — By Mr. Meigs: Proposed Constitutional Amendment.

Second reading — To amend Article VII of the Constitution, by repealing Section 7 thereof and substituting a new section relating to the Forest Preserve and to the creation of a Board of Conservation and its powers and duties.

The President — Committee on Conservation of Natural Resources with a copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article V, Section 3, in relation to the powers and duties of the State Engineer and Surveyor.

The President — Referred to the Committee on the Governor and Other State Officers with a copy to the Committee on Canals.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article X of the Constitution, in relation to the removal of county officers.

The President — Committee on County, Town and Village Officers, unless there is some other suggestion.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article V of the Constitution, by repealing Section 4 thereof in relation to the Superintendent of Prisons.

The President — Committee on Prisons, etc., and the Prevention and Punishment of Crime with a copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Constitutional Amendment.

Second reading — To amend Article VII, Section 2, in relation to the power of the State to contract debts.

The President — Referred to the Committee on State Finances with a copy to the Committee on Taxation.

The Secretary — By Mr. Green: Proposed Constitutional Amendment.

Second reading — To amend Article VII of the Constitution, in relation to establishing a conservation department in charge of a commissioner.

The President — Committee on Conservation of Natural Resources with a copy to the Committee on the Governor and Other State Officers.

Mr. Lindsay — Mr. President, I offer the following.

The Secretary — By Mr. Lindsay: Proposed Constitutional Amendment.

Second reading — To amend Article I, Section 15, of the Constitution, in relation to government of Indians.

The President — Committee on Relations to Indians.

The President — Reports of standing committees.

Mr. Wickersham — Mr. President, in the absence of Mr. J. S. Phillips, I submit the following report from the Committee on Library and Information, and I move its adoption.

The Secretary — Mr. Wickersham, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Wagner, May 5, 1915, relative to obtaining certain information from the State Comptroller as to the amount and terms of all bonds issued under the provisions of Article VII of the Constitution, etc., reports in favor of the adoption of said resolution.

By Mr. Wagner: Resolved, That the State Comptroller be requested to transmit to this Convention a statement showing the amount and term of all bonds issued under the provisions of Article VII of the Constitution and now outstanding; also the amount in each sinking fund for the redemption of such bonds, together with the amount which should be in each sinking fund if such fund was maintained on a 3 per cent. amortization basis.

The President — Is there any objection to the consideration of the resolution at this time?

Mr. Quigg — Mr. President, I do not see why the Comptroller ought to be compelled to do that, and I would like to get some information from Senator Wagner as to the nature of the request, and he is not here to-day.

The President — Under the rule the resolution, or the report, will stand over until the next legislative day.

Mr. Wickersham — Mr. President, from the Committee on Library and Information, I submit the following report, and I move its adoption.

The Secretary — Mr. Wickersham, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. C. A. Webber, May 13, 1915, relative to obtaining certain information from the State Comptroller as to the reports in transfer tax proceedings filed in his office, reports that the Committee has considered said resolution and reports in favor of the adoption of the following resolution: Resolved, That the State Comptroller be requested to furnish the following information from the reports in transfer tax proceedings filed in his office:

First. The following details in relation to each of the last five parcels of real estate in each county of the State appraised for the transfer tax:

(a) The name of the deceased; (b) the name of the city or town in which the parcel is located; (c) the assessed value as reported; (d) the appraised value as fixed.

Second. The foregoing information, to be arranged by counties according to the location of the parcels, and to be in tabular form.

The President — Is there any objection to the present consideration of the resolution as offered? The Chair hears none, and the resolution is before the Convention. All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Reports of select committees.

Third reading of Proposed Constitutional Amendments.

Unfinished business on general orders.

Special orders.

General orders.

The Secretary will make the announcements.

The President — Any further business to be brought before the Convention at this time?

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 12 o'clock noon, Tuesday next.

Whereupon, at 10:40 a. m., the Convention adjourned to meet Tuesday, June 8, 1915, at 12 o'clock noon.

TUESDAY, JUNE 8, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, our Heavenly Father, whose offspring we are, and in whose world we dwell, we bless Thee for the precious gift of life and for all the gracious influences that minister to the enlightening of our minds, to the enriching of our souls and to the effectiveness of our service. Vouchsafe unto us, we beseech Thee, Thy help, that we may fill wisely and well our place in the world, using the talents with which Thou hast endowed us and the opportunities which Thou dost appoint unto us, to some high and worthy purpose. Oh God, Thou who art the inspiration of every thought and of every effort that makes for the establishment of righteousness and love and peace among men, we ask the guidance of Thy spirit for Thy servants, the members of this Convention, that all their deliberations

and enactments may be in accord with Thy holy will, and may serve to establish Thy goodness and truth and justice in the world of men, for Thy Name's sake, Amen.

The President — Are there any amendments proposed to the Journal as printed and distributed? There being no amendments the Journal is approved as printed.

Presentation of memorials.

Mr. Tierney — Mr. President, I desire to present this petition. This has reference to two subjects, and I ask that one be referred to the Committee on the Judiciary and one to the Civil Service Committee.

The President — That reference will be made, without objection. Are there any further memorials or petitions?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Tanner — I move that a copy of the following Proposed Amendments be sent to the Committee on the Governor and Other State Officers for their information and opinion. The following were sent to the Committee on Industrial Interests and Relations: No. 131, Introductory No.; 134, 194 and 207.

The President — Without objection that order will be made.

Mr. Tanner — I make a similar motion relative to Proposed Amendments Nos. 235 and 269, sent to the Committee on Prisons.

The President — Same order.

Mr. Tanner — I make a similar motion relative to Nos. 98, 161 and 249, sent to the Committee on Public Utilities.

The President — Same order.

Mr. Tanner — I make a similar motion as to No. 4, sent to the Committee on Suffrage.

The President — Same order.

Mr. Tanner — And to No. 327, sent to the Committee on Charities.

The President — Same order.

Mr. Deyo — The delegation from the Thirty-ninth Senatorial District have received numerous signed petitions in favor of Mr. S. K. Phillips' bill, giving volunteer firemen preference in the appointment and promotion in the public service, and in opposition to the measure introduced by Mr. Wickersham, which would wipe out jury exemptions, and I simply wish to offer this and ask that it be referred to the Civil Service Committee.

The President — Without objection that reference will be made.

Mr. Dunmore — I would like to call attention to Amendment No. 389, Introductory No. 382; my name is spelled wrong on the

Proposed Amendment as the introducer, and I was in doubt as to just how to proceed to have it corrected; I do not know whether it ought to be made on the Record or whether the amendment should be changed.

The President — Without objection the spelling will be corrected.

The President — Propositions for Constitutional Amendment. The Secretary will call the roll of districts.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, by adding a section thereto insuring liberty of conscience in regard to military service.

The President — Referred to the Committee on Military Affairs.

Mr. Marshall — May I ask the Chairman to what Committee that was referred?

The President — The Committee on Military Affairs.

Mr. Coles — Mr. President, I assume that that should properly go to the Bill of Rights Committee. It comes, I think, within the purview of that Committee.

Mr. Marshall — A similar measure was sent to the Bill of Rights Committee; that was the reason I asked that question.

Mr. Coles — I therefore ask that it be sent to the Bill of Rights Committee.

The President — In the absence of the chairman of — well, it may go to the Bill of Rights Committee with a copy to the Committee on Military Affairs.

Mr. Frank — Mr. President, I offer the following.

The Secretary — By Mr. Frank: A Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, relative to the taking of private property for public purposes.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Frank: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, relative to the taking of private property for public purposes.

The President — Referred to the Committee on Bill of Rights with a copy to the Committee on Public Utilities.

Mr. Adams — Mr. President, I submit the following proposal by request.

The Secretary — By Mr. Adams: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by adding a new section, to be known as Section 15-a, providing for the creation of a court of record in cities of the first class, to be known as the Domestic Relations Court.

The President — Referred to the Committee on the Judiciary.

Mr. Reeves — Mr. President, I offer the following.

The Secretary — By Mr. Reeves: Proposed Amendment to the Constitution.

Second reading — To amend Article X of the Constitution, in relation to sheriffs, clerks of counties, district attorneys, registers and superintendents of county records.

The President — Referred to the Committee on County, Town and Village Government with a copy to the Committee on County, Town and Village Officers.

Mr. Quigg — Mr. President, the last proposal, should not a copy go to the Committee on County Organization? Of course I don't know what the sense of the proposal is, but it would strike me that it ought to go to the Committee on County Organization.

The President — It did. Mr. Quigg refers to the proposal by Mr. Reeves?

Mr. Quigg — Yes, sir; in respect to so many county officers.

The President — That was referred to the Committee on County, Town and Village Government with a copy to the Committee on County, Town and Village Officers.

The Secretary — By Mr. Bayes: Proposed Amendment to the Constitution.

Second reading — To amend Sections 2 and 7 of Article VI of the Constitution, in relation to the consolidation of the Appellate Division and the Court of Appeals into a single appellate court to be known as the Court of Appeals.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Bayes: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article VI of the Constitution, in relation to the jurisdiction of the Court of Appeals.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Newburger: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI, in relation to inferior local courts of civil and criminal jurisdiction.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Newburger: Proposed Constitutional Amendment.

Second reading — To amend Section 23 of Article VI, in relation to Courts of Special Sessions.

The President — Referred to the Committee on the Judiciary.

Mr. Baldwin — Mr. President, I offer the following.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Articles X and XII of the Constitution, in relation to consolidating into a single county the present counties within the city of New York.

The President — Referred to the Committee on County, Town and Village Government, unless Mr. Baldwin has some other suggestion to make.

Mr. Baldwin — I have no other suggestion, Mr. President.

Mr. Low — Mr. President, may a copy of that proposal be sent to the Cities Committee?

The President — With a copy to the Cities Committee, with the customary authority.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII of the Constitution, in relation to the taxation and assessed valuation of real estate.

The President — Referred to the Committee on Taxation.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to legislation affecting local salaries and expenditures.

The President — Referred to the Committee on Legislative Powers with a copy to the Committee on Cities and the Committee on County, Town and Village Government.

Mr. Baldwin — Mr. President, I desire to offer the following propositions, by request: One relating to the issuance of municipal securities at the request of the United Real Estate Owners of New York city and the remaining propositions at the request of the Merchants' Association of New York city.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Section 2, Article VI of the Constitution, in relation to the appointment of Supreme Court commissioners.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to the manner of ascertaining the compensation to be made when private property shall be taken for public use.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Baldwin: Proposed Amendment to the Constitution.

Second reading — To amend Section 21 of Article VI of the Constitution, in relation to the collection, compilation and publication of judicial statistics.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Baldwin: Proposed Constitutional Amendment.

Second reading — To amend Article VIII of the Constitution, in relation to regulation of the issuance of municipal securities.

The President — Referred to the Committee on State Finances with a copy to the Committee on County, Town and Village Government and the Committee on Cities — unless there is some other suggestion.

Mr. T. F. Smith — I offer the following Proposed Amendment.

The Secretary — By Mr. T. F. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article II of the Constitution, in relation to registration and election laws.

The President — Committee on Suffrage.

Mr. Wagner — I offer the following.

The Secretary — By Mr. Wagner: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, in relation to the removal of judicial officers.

The President — Committee on the Judiciary.

Mr. J. G. Saxe — I offer the following.

The Secretary — By Mr. J. G. Saxe: Proposed Amendment to the Constitution.

Second reading — To amend Sections 21 and 22 of Article III and Section 4 of Article IV of the Constitution, so as to provide a scientific budget system for the State.

The President — Committee on State Finances.

Mr. Tanner — I offer the following.

The Secretary — By Mr. Tanner: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article III of the Constitution, in relation to the number and terms of members of the Legislature, the length of legislative sessions and the powers of the Legislature to enact laws at certain sessions.

The President — Committee on Legislative Organization.

Mr. Tanner — Mr. President, may I ask that a copy be sent to the Committee on Legislative Powers?

The President — That order will be made.

Mr. F. Martin — I offer the following Proposed Amendments.

The Secretary — By Mr. F. Martin: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article X of the Constitution, and to insert a new section therein, in relation to court review of removals of public elective officers.

The President — Committee on County, Town and Village Officers.

The Secretary — By Mr. F. Martin: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to the trial of an accused person upon an information, without presentment or indictment by grand jury, upon the request of such person and the consent of the district attorney.

The President — Committee on Bill of Rights.

Mr. Barrett — Mr. President, I offer the following.

The Secretary — By Mr. Barrett: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to laws relating to county autonomy.

The President — Committee on County, Town and Village Government.

The Secretary — By Mr. C. H. Young: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by adding thereto a new section, to be known as Section 24, regulating and limiting the office of official referee.

The President — Committee on the Judiciary.

Mr. Wiggins — I offer the following.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article X of the Constitution, in relation to the time for the Legislature to assemble annually.

The President — Committee on Legislative Organization.

Mr. Tierney — I offer the following.

The Secretary — By Mr. Tierney: Proposed Amendment to the Constitution.

Second reading — To amend Section 29 of Article III of the Constitution in relation to prison labor.

The President — The Committee on Prisons and the Prevention and Punishment of Crime and a copy to the Committee on Industrial Relations.

Mr. Cobb — I offer the following amendments, by request.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 16 of Article VI of the Constitution, so as to provide for the creation of a Court of Claims.

The President — Committee on the Judiciary.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 11 of Article VI of the Constitution, in relation to the removal of judges of the Court of Claims.

The President — Committee on the Judiciary.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, in relation to the removal of judges of inferior local courts and of the Court of Claims.

The President — Committee on the Judiciary.

Mr. R. B. Smith — I offer the following Proposed Amendments.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Sections 4, 11 and 12 of Article VII of the Constitution, in relation to State debts.

The President — The Committee on State Finances.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII of the Constitution, in relation to funded debts of the State, municipal corporations and school districts.

The President — Committee on State Finances and a copy to the Committee on Cities and the Committee on County, Town and Village Government.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article IX of the Constitution, in relation to the appointment of city school authorities.

The President — Committee on Education and a copy to the Committee on Cities.

Mr. Deyo — I offer the following.

The Secretary — By Mr. Deyo: Proposed Amendment to the Constitution.

Second reading — To amend Article IV, Article V, Article VIII, Article X and Article XI of the Constitution, in relation to the method of selection of the Secretary of State, Comptroller, Treasurer, Attorney-General, State Engineer and Surveyor and other State officials.

The President — Committee on the Governor and Other State Officers.

Mr. Leggett — I offer the following.

The Secretary — By Mr. Leggett: Proposed Amendment to the Constitution.

Second reading — To amend Article XIII of the Constitution, relating to the offense of bribery.

The President — Has the introducer any suggestions as to the reference of this, whether to the Committee on Bill of Rights or to the Committee on the Judiciary?

Mr. Leggett — I would not think that the Committee on Bill of Rights had anything to do with it, myself.

The President — It could go to the Committee on the Judiciary.

Mr. Leggett — That would be satisfactory to me.

The President — Committee on the Judiciary.

The Secretary -- By Mr. Leggett: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII of the Constitution, relating to banking associations.

The President — Committee on Banking and Insurance.

Mr. Wickersham — At the request of Mr. Rodenbeck, I submit the following amendments.

The Secretary — By Mr. Rodenbeck: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to reserving to the people of the State and of localities, respectively, all right, title and interest to water, surplus water and water power impounded or created in the construction of the canals and other public works.

The President — Committee on Conservation and Natural Resources with a copy to the Committee on Public Utilities and a copy to the Committee on Canals.

The Secretary — By Mr. Rodenbeck: Proposed Amendment to the Constitution.

Second reading — To amend Section 14 of Article VI of the Constitution, in relation to expediting legal proceedings by increasing the jurisdiction of the County Courts and providing for the transfer of actions from the Supreme Court to the County Courts.

The President — Committee on the Judiciary.

Mr. Lincoln — I offer the following Proposed Amendment.

The Secretary — By Mr. Lincoln: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article VII of the Constitution, so as to provide for the payment in annual instalments of all debts created for public improvements, and for the determination of the probable life or period of usefulness of proposed improvements.

The President — Committee on State Finances.

Mr. Sanders — I offer the following.

The Secretary — By Mr. Sanders: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, by adding a new section, to be known as Section 13, relating to highways.

The President — Committee on Public Utilities with a copy to the Committee on State Finances.

Mr. Sanders — Did I understand the primary reference was to the Committee on Public Utilities?

The President — Yes, to the Committee on Public Utilities with a copy to the Committee on State Finances.

Mr. Westwood — I offer the following proposal.

The Secretary — By Mr. Westwood: Proposed Amendment to the Constitution.

Second reading — To add a new section to Article VII, to require that provision be made annually for the upkeep of improved highways.

The President — Committee on Public Utilities, with a copy to the Committee on State Finances.

Mr. Dow — I offer the following.

The Secretary — By Mr. Dow: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VII of the Constitution generally, in relation to the forests and waters of the State.

The President — Committee on Conservation and Natural Resources, with a copy to the Committee on the Governor and Other State Officers.

Reports of standing committees.

Are there any reports of standing committees?

Reports of select committees.

Mr. Brackett — I offer the following report of the Committee on Legislative Organization.

The Secretary — The Committee on the Legislature, Its Organization, and the Number, Apportionment, Election, Tenure of Office and Compensation of Its Members, to whom was referred the resolution of Mr. Quigg, which reads as follows:

“Resolved: First, that the Legislature should be composed, as at present, of two houses;

“Resolved: Second, that it is undesirable that the membership of either house should be increased;

“Resolved: Third, that the holding of annual sessions is expedient;” makes this, its report, on such resolution, as follows:

That that resolution be amended so as to read as follows:

“Resolved, That the Legislature shall be composed of a Senate and an Assembly.

“Resolved, further, That the members of the Senate be elected from Senate districts, and that the members of the Assembly be elected from Assembly districts.”

In recording and recommending the adoption of this resolution, the Committee beg leave to submit the following considerations:

First, it is very desirable, if, indeed, it is not necessary, that the Committee shall have the judgment of the Convention upon the proposition involved in the resolution so reported. If such judgment is not given, settling the question as to whether the Legislature shall hereafter consist of one or of two houses, and there should be a disagreement with the report of the Committee on these propositions, when contained in the final report, in case of disagreement by the Convention with the Committee on these two great big matters, the entire subsequent work of the Committee, with reference to the number of Senators and Assemblymen, and the districts into which the State shall be divided for the purpose of electing such Senators and Assemblymen, would go for naught.

Inasmuch as such work will be enormous, it is the practically unanimous consensus of the Committee that the points embodied in the resolution so reported should be first definitely settled by action of the Convention, and it, therefore, makes this report of Mr. Quigg's resolution and requests that action may be taken thereon by the Convention.

The Committee has considered with much care the question as to whether there should continue to be two houses of the Legislature, or whether the proposition submitted and argued before the Committee for one house should prevail. It is recognized that there is much to be said and there has been much said to the Committee that is appealing in favor of one house.

In view, however, of the fact that the change from two houses to one would be radical, that it would do violence to the traditions of the State, and in view of the practically unanimous testimony

of those familiar with legislative work of the State, that consideration by two separate bodies tends to and does result in more mature deliberation, and, therefore, in more careful legislation, the Committee reports the resolutions before recited and asks the consideration of the Convention thereon.

Mr. C. E. Aiken — I present the following as a minority report.

The President — The first business before the Convention will be the disposal of the report which has been made; is there any objection to the present consideration of the report?

Mr. Wickersham — I object to the present consideration of the report.

The President — The report and the resolution will stand over, under the rule, until the next legislative day.

Mr. Wickersham — Mr. President, I move that the report be printed for the consideration of the members, and also the report of the minority members, or the minority report of the Committee.

Mr. Brackett — I suggest this, I doubt whether, under Rule 15, I think it is, an objection can dispose of the present consideration of the resolution.

The language is not entirely clear and so I speak with no certainty, and I have no wish to make any point on that.

I believe that under the rule the resolution,— we have the right, if the majority so wishes, to consider the resolution now. On the other hand, I appreciate that it is a matter of concern and a matter on which various members of the body may wish to give their views and it may give rise to not a little of debate, which I have not the slightest wish to curtail, nor to avoid.

I do think this, however, that the matter should be disposed of at a very early date, and I suggest, therefore, in the interest of every one who wants to take a hand in the debate on the resolution, that we make it a special order for some time, I should be glad, if for to-morrow, but, if it is any more convenient, on Thursday,— that we shall make it a special order for Thursday directly after the reading of the journal.

Mr. Wickersham — I trust that Senator Brackett will agree with my suggestion that the report be printed.

Mr. Brackett — Oh, yes; I agree that it should be printed and on our desks to-morrow.

Mr. Wickersham — I think it would be well enough to have Thursday set as the day for special orders to consider the report, and I therefore agree with that suggestion by Senator Brackett.

Mr. Brackett — Yes, I would suggest that we make it a special order on Thursday.

Mr. Brackett — I said immediately after the reading of the journal.

Mr. Wagner — Mr. President, why not take it up in the regular order of business?

Mr. Brackett — I have no wish that it should not go through the regular order, or that it should be preferred. After the regular order, there is no objection to that.

Mr. Wickersham — I think in the regular order of business would be better.

Mr. Wagner — Mr. President, if I may be permitted to say a word, I suggest that the Convention have a little longer time than Thursday. This is the first intimation I had of this proposition coming so early before our Convention, and perhaps it is my own fault. It is a rather important matter to the city of New York.

Mr. Brackett — The report was ordered on Thursday. It was not deemed advisable that it should be made on Friday, when there would be a short session and a small attendance.

I desire to state that I made an effort to find the member whom I just interrupted with a view to giving him the information and I was told that necessarily he was absent.

Not only do I want to do that in the common interest, but I think it is especially good judgment, in view of the proposition we have before us.

The only reason I want to press that and to ask consideration is this: That the work that comes after this matter is settled is really and truly an enormous work, and I believe and hope that the member can accommodate himself to Thursday so that we may have disposition of it made at that time.

Mr. Wagner — Mr. President, the work that comes after this is what especially those of us from New York are vitally interested in, and while I have the highest regard, personally, for the distinguished delegate from Saratoga, my suspicion is aroused in connection with any reapportionment with which he is connected.

Mr. Brackett — This does not affect the question of reapportionment at all.

Mr. Wagner — Yes it does. That is my opinion, that it does. It is to clear the road, and I want to have something to say, if I may, about clearing the road; and with our other duties, you see I am a member of several important committees, and we have

very important hearings this week, before both the Committee on Judiciary and the Committee on Finances. There are other members here who have advanced propositions on reapportionments, who I am sure want to express their views at this time.

And, I think we ought to be given an opportunity to think about this for a day or two. This is so vital and so important that a delay for a day or two, more or less, would not be detrimental to any one, and its immediate consideration, without further deliberation, might be a serious matter.

I suggest that we put it over until next Tuesday for discussion.

Mr. Brackett — The learned member has certainly misunderstood the import of the resolution, if he thinks this, in the slightest degree, affects the question of redistricting, or of the proportionate number of representatives that are coming from the Iniquity, known as the great city.

The only effect of this resolution is just this, shall there be continued two houses, composed of the Senate and Assembly, elected from Senate districts, the Senators and the Assemblymen from Assembly districts.

There were before the committee, the propositions, first, that there should be one house, and, second, that there should be Senators-at-large. And even one proposition that went to the extent of saying that the whole Senate should be elected at large.

This report and this proposed resolution settle only those propositions. Now, I have not the slightest wish to stop or prevent members from discussing this proposition. I want to hear what each member's view is, and I want to state that there is nothing involved here on the question of redistricting, and that therefore I am entirely satisfied and I accept the motion that it go on next Thursday after the regular order of business, when I shall debate it. And I want to say that I think the member will apologize for saying that there is anything involved here of the nature to which he refers.

Mr. Wagner — Mr. President, I want to say that while the Senator and I have differed many times upon matters, especially partisan matters, I have never yet found it necessary to apologize to the Senator, and I don't think I will at the end of this discussion.

Mr. Brackett — You will not apologize to me but to the Convention.

Mr. Wagner — But there is more involved here than what the Senator — what the distinguished delegate from Saratoga says. My recollection of the constitutional provision, declaring the number of representatives, has in it that other provision, the apportionment, in which the Senator seems to be so vitally interested,

so that the two are coupled up together, and the adoption of this resolution will, to some extent, involve a discussion of any proposed reapportionment.

I think it is a novel way to begin this reapportionment question by offering a resolution declaring the views of the Convention, rather than having before us a proposed amendment to the Constitution which we should consider upon its merits.

Mr. Quigg — Mr. President, what is the regular order; a point of order was made by Mr. Wickersham that it go over for a day.

The President — Yes. All this discussion proceeds by unanimous consent.

Mr. Wagner — I thought I was enlightening the delegate from Columbia.

The President — It appears to the Chair that, under Rule 50, this resolution stands over, of course, provided they give rise to debate for one day.

Mr. Quigg — Except, if the Chair please, such as shall relate to the disposition of business immediately before the Convention. Now, there arises the question, whether a report of a standing committee is business immediately before the Convention. If it is, its consideration is presently in order. The Chair will notice that the rules with respect to propositions and proposals differ. They are found, I think, on page 10, that when they are submitted by a committee, reported by a committee, they be committed to the Committee of the Whole and be printed. That implies that they are not presently in order, these proposals. Now, the question is whether a distinction is to be made with respect to resolutions. This is a mere resolution intended to guide the Committee on Legislative Organization in its subsequent work.

I maintain the resolution reported having been introduced, having been referred to a committee and having been reported back by the committee in the order of reports of standing committees is then and there immediately before the Convention and is not subject to the procedure with respect to proposals. So I make the point of order that the resolution is now before the House, with, however, every intention to defer to the views of other delegates as to when it shall be taken up. I would like that proposition to be determined by the Chair.

Mr. Wickersham — That proposition will arise squarely on my proposal for the consideration of the motion.

Mr. Quigg — Precisely.

Mr. Wickersham — Mr. President, we proceeded by unanimous consent. After that I raised that point and then I moved, for the convenience of the House, that the report be printed; subsequently again proceeding by unanimous consent, I united with Senator Brackett in moving for the fixing of a day for the consideration

of the motion. As, however, there seems to be some difference of opinion between Mr. Quigg and the others of us on that point, I think perhaps it would be simpler, as it usually is in all cases, to proceed under the rules, and I therefore adhere to the objection I made to the consideration of the motion at this time. I ask for the ruling of the Chair on that motion.

Mr. Quigg — Mr. President, I hope Mr. Aiken's minority report will also be received and printed. I think the Chair ought to determine whether the resolution is in order at this time. After that the question of unanimous consent can be fairly considered.

Mr. Brackett — Mr. President, I rise to a point of order. There is a pending motion that the matter be made a special order next Tuesday. That matter is pending and I suppose that must take precedence of any other suggestion, even of my honored leader, in moving the point that it must simply go over under the rules. I hope this matter of making it a special order will be consented to. It is a mere matter of the time when it shall be convenient for every one. It does make it convenient for all of us to have it fixed for some time and I hope it might be considered first. The suggestion of Mr. Wickersham would throw it simply over until to-morrow. I am thinking entirely, solely in the interest of the personal convenience of the members, that it shall go over as far as Tuesday. I think we all ought to agree that that is a convenient and proper time.

Mr. J. G. Saxe — I think, Mr. President, a proper amendment to that resolution is in order, that this resolution in so far as it relates to election of Senators and Assemblymen to represent districts should be sent to the Committee on Suffrage. I have no desire to delay this motion, but the Committee on Suffrage sat last Wednesday for four hours, hearing debates on that very subject, hearing something like ten or fifteen speakers from all over the State, representing a large number of people, and it seems to me that that Committee, having bills before it now, debating this subject and having these arguments, should be allowed to pass upon that question and make a report favorably or otherwise and I would, therefore, ask Mr. Brackett to accept an amendment to his resolution, that while this motion is made a special order for next Tuesday it shall be in the meanwhile committed to the Committee on Suffrage and that they be requested to report next Monday.

Mr. Aiken — The minority report, may that be read, before action is taken on this resolution?

The President — The report of the minority would have been read had its existence been stated and it may be read now before any further proceedings.

Mr. A. E. Smith — Mr. President, in order that the body may thoroughly understand this whole situation as to resolutions I would like to make the following observation: I do not believe that the fact that a member rises in his seat to debate a resolution after it is reported from a committee puts it over for one day. The language of that rule has reference to the introduction of resolutions. Resolutions when introduced, if objected to by a member, automatically lie over one day for debate, unless one of the other things shall happen to it, provided in Chapter XI, beginning with Rule No. 50. Upon the introduction of a resolution it can be discussed immediately and disposed of by the Convention. On the objection of one member it must lie over until tomorrow. If it provides for an appropriation for printing, or contemplates an expenditure it must, under the rules, be referred to the committee —

Mr. Brackett — Except, or unless, in Rule No. 50 —

Mr. A. E. Smith — Well, I reason that that would not refer to a resolution of a committee because I would hold that that resolution was not in the Convention. What happened here was that the resolution was introduced asking to fix a definite policy as to what should be the future organization of the Legislature. It was referred to the Committee on Legislative Organization, Officers, etc., from which committee it was reported. I hold that the resolution is now the property of this Convention, and, unless a motion is made to delay it to a date set or a day certain, it is for immediate discussion and will not automatically go over by any member rising in his place to discuss it. It is a report of a committee. It is not a resolution offered to the Convention.

Mr. Wickersham — Mr. President, there is no such exception in the rule itself. It is very simple and would not seem to give rise naturally to any confusion of thought. It reads that "Resolutions giving rise to debate, except such as shall relate to the disposition of business immediately before the Convention or to the business of the day on which they may be offered, or to adjournments or recesses, shall lie over one day for consideration;" — Now of course I take it that by unanimous consent a motion may be entertained and adopted fixing a day when that resolution shall be called up for consideration; but in effect it is a resolution reported by the committee, the committee reports on your resolution recommending its adoption in a modified form; the resolution giving rise to debate —

Mr. Brackett — Does not the exception in Rule 50 "except such as shall relate to" matter presently before the Convention — I have not the exact language — is not the report of the committee immediately before the Convention and therefore within the exception that it must lie over for one day?

Mr. Wickersham — Mr. President, it seems to me obviously it is not so, because after giving rise to debate it is not immediately before the Convention and therefore on objection must lie over for another day, and the purpose of the rule I take it is that every member may be advised with respect to any contentious resolution introduced and may be in his place to debate and to vote upon it when it comes before the body and this falls absolutely and emphatically and in a legislative manner within the meaning of that rule.

Mr. A. E. Smith — Mr. President, I would like to get the particular attention of the members of the Convention who have served in the Legislature. When a committee of the Legislature reports it may report a dozen bills. With that report it may report a resolution referred to the same committee. That is notably so with the Committee on Ways and Means. Without any change the procedure has always been to adopt that part of the report which contains the resolution and to immediately act upon the resolution. The language of this rule refers entirely to the introduction of resolutions, not to their report.

Mr. Sheehan — Mr. President, it seems to me that the correct position of this resolution is that indicated by the President. It seems to me that this question is easily disposed of under Rule 50. In my opinion the resolution does not come within the intent of the rule that resolutions giving rise to debate shall lie over one day. If the resolution was initiated by the committee and reported to the Convention with recommendation for passage it would have to go over upon objection being made; but as this is in the nature of a report from a standing committee on a resolution heretofore referred to it, the motion of the delegate from Saratoga to postpone consideration until a future date is in order and is the pending question.

Mr. Wickersham — Mr. President, before the ruling is made, may I call the attention of the Chair to what happened on Friday, the last legislative day? I reported from the Committee on Library and Information a resolution which had been introduced by Mr. Wagner calling for certain information from one of the public officials. On the objection of Mr. Quigg consideration of that resolution reported back to this body was deferred one day. The precedent is exactly in line and covers the present case.

Mr. Quigg — But without the objection made, Mr. Wickersham, in this Convention. Now the question is raised squarely before the Chair. The fact that everybody consented to its going over does not mean that the point of order I have raised is not a good point. It comes now squarely before the Chair. It did not then. You sat down and agreed to it, and everybody else did.

Mr. Weed — Mr. President, there is a practical reason why I think the ruling should be made that on objection the resolution should go over to a subsequent day and that is this, that owing to the acoustics of this Chamber it is almost impossible in this portion of it to appreciate exactly what the resolution contains, and it is only by reading the Record on the day following the day that the proceedings are had that those sitting at this distance from you are able clearly to appreciate exactly what has been presented to the Convention; and whether the acoustics of this Chamber had anything to do with the rule or not, I think they do present a good and solid reason why any objection should carry a resolution over to a subsequent day.

Mr. A. E. Smith — Mr. President, I don't want to prolong this discussion inordinately, except to say that having been for a year a presiding officer of the Assembly, in which we had practically the same rule upon all concurrent resolutions, the rulings of the legislative presiding officers have always been that that rule applied only to the original introduction of a resolution so that it may not be forced to final passage without the members of the Legislature having opportunity to acquaint themselves with the subject of the resolution, and when a resolution was offered by unanimous consent or motion and was referred to a committee for consideration it at once becomes the property of that committee and upon its report it is in exactly the same position as any other report of a committee; and I contend that this resolution having been reported by the committee of which Senator Brackett is chairman, is a report of a committee and as a report is now before us so that my motion that discussion or consideration of the report go over until next Tuesday is in order.

Mr. R. B. Smith — Mr. President, this rule is the same in substance as Rule No. 16 of the Assembly and is in the exact language, I think, that Rule No. 16 was in before I suggested its last amendment. The uniform practice in both Houses of the Legislature for over twenty years to my certain knowledge has been that this rule that a resolution lie over when it gives rise to debate applies only to the introduction of a resolution upon its introduction either by a member or when reported as an original resolution from a committee. It does not apply to a resolution when referred to a committee which comes back by way of a committee report, whether the resolution reported is amended or not. There is not any question of legislative precedent in this matter.

The President — The Chair has come to the conclusion that although the terms of the paragraph of Rule 50 relating to resolutions which give rise to debate literally apply to the resolution which has now been reported, nevertheless the way in which the

resolution comes before the Convention takes it out of the reason of the rule.

The purpose of such a rule, of course, is to prevent a body being taken by surprise and called upon to pass upon questions without opportunity for knowledge of its consideration.

It would seem that, while the resolution originally introduced by Mr. Quigg was subject to the rule that it must lie over one day for consideration, yet the reference to a committee and the report by the committee to the Convention accomplishes the full result which was intended by the rule. The resolution was laid over for more than one day and it has not received consideration in the manner directed by the Convention and now comes back before the Convention.

There is a very reasonable rule in some legislative bodies, there is the rule in the national legislature, that all reports lie over for consideration, but there seems to be no such rule here and, in view of what is apparently the practice in both legislative bodies of this State, as stated by members of the Convention without any contradiction, the Chair thinks that the express rules which we have here do not apply to reports, and that the resolutions are before the Convention. The Chair will direct the omission to be remedied, and, unless there is objection, the report of the minority which came with the report of the committee, to be read.

Mr. Brackett — Mr. President, I have not the slightest objection to that being done. I would only like a ruling of the Chair now as to the point of order I make as to what is the pending question. I assume that it is and must be the motion to make a special order of the resolution on next Tuesday.

The President — The Chair rules that that is the pending question.

Mr. Brackett — The report of the Committee, and consideration of the resolution — did I catch the ruling of the Chair?

The President — The Chair considers that to be the pending question.

Mr. Unger — Mr. President, it seems to me we are yet to hear the minority report.

The President — We are yet to hear the minority report, and unless there is further objection, or further interruption, the Secretary will read the report.

The Secretary — The undersigned, a minority of the Committee on Legislative Organization, believing that a single house of the Legislature would be more efficient and economical, and that the question of a single or dual Legislature should be decided by the Convention itself, hereby dissent from the report of the majority of said committee and recommend that a resolution be passed as follows:

Resolved, That the Legislature consist of one house.

The reasons why the minority members favor a single house are in part as follows:

First. A single house would concentrate responsibility. All the arguments for a short ballot are pertinent to a short Legislature. Under the present dual system many vicious bills are passed by one house, with the thought that they will be thrown out when they reach the other house. That other house may, however, pass the bills, casting back the responsibility on the house in which the bills originated. A sense of real responsibility would make committees which have measures under consideration more careful in reporting bills favorably.

Second. The friction which sometimes arises between the two houses prevents the passage of good measures and often results in a deadlock in which even appropriation bills necessary to run the State government are held up.

Third. The present method accentuates the congestion of important legislation which occurs at the end of a session when many important bills are amended and passed with scant attention. Bills are rushed from one house to another in the few days before adjournment and in the confusion much undesirable legislation is passed and becomes law, unless the discerning and critical eye of the Governor sees the defects or vices of the bill and it is vetoed.

Fourth. Not so important a matter but still one which should be considered is the fact that the maintenance of a house like the Assembly costs \$400,000 or \$500,000, and if the salaries are increased, as seems probable, it would add still more largely to the expense.

Now what may be said of the advantages of the present system? If a double house can do better work, or is more desirable for any reason, why not divide the present Constitutional Convention into two parts, sitting and deliberating apart? No delegate in the Convention, we believe, would advise such a course or such a method of selecting delegates in the future. The following arguments are made for the present system, viz.:

First. That the Assembly touches the people and gives local representation. We think, however, that the Senators just as truly represent localities as the Assemblymen and that it will be found that Senators introduce nearly as many local measures as Assemblymen. If there is any force in this argument, a house as numerous as the Assembly might be elected. The proposition now advanced does not depend on the size of the legislative body. If home rule for cities is granted, there will not be the need for local legislation.

Second. That one house acts as a check upon the other. We have argued above and believe that more frequently two houses

instead of acting as a check tend to remove the sense of responsibility and let loose a flood of legislation which a more responsible body would restrain. The effective check upon undesirable legislation is the Governor's veto, and this check makes any other unnecessary and undesirable.

Finally, we have the argument from tradition, that because this State has always had two houses and because the other States have two houses, we must continue the present system. This plaster-cast of tradition may be proper when conditions remain the same, or where there is no growth or development. But let us see first what led to the adoption of two houses of the Legislature. It was partly accidental and partly distrust of the people. It was accidental in that it followed the precedent of Parliament with its House of Lords and House of Commons, disregarding the fact that there was a reason for two Houses of Parliament in that at that time they represented different interests, the nobility or landed gentry on the one hand and the people on the other, just as our Congress has, in its two houses, from the start, represented two different interests, the sovereign States of the Union on the one hand and the people on the other. But in our State Legislatures there is no representation of different interests, but representatives chosen from similar geographical areas, one somewhat larger than the other. Then there was the distrust of the people which led to the formation of two legislative bodies, just as the election of President was consigned to a body of electors who were supposed to exercise their independent judgment and not necessarily vote as the people directed.

It is refreshing to know that, even in those early days, when our government was forming, democratic and clear-headed Ben Franklin advocated a single house for the State Legislature and said that making two houses was like hitching a horse to each end of a cart and letting them pull in opposite directions, a metaphor which we have since on various occasions seen verified. Franklin cited the famous political fable of the snake with two heads and one body. "She was going to a brook to drink and in her way was to pass through a hedge, a twig of which opposed her direct course; one head chose to go on the right side of the twig, the other on the left; so that time was spent in the contest, and before the decision was completed the poor snake died of thirst."

We have also the opinion of a modern political philosopher, Mr. Bryce, who states in his *American Commonwealth* that "the real blemishes of State government are all found in the composition and conduct of the Legislatures."

Times have changed since the Revolution and we can hardly take as an example now the British Parliament, unless we wish

to create one house of the Legislature with no substantial legislative power. The tendency toward efficiency and centralization in government has made a revolution in the British government much more vital than would be the change to a single house in this State.

We must realize that there is much dissatisfaction with Legislatures and the legislative product. There is a cry that there is too much legislation and that the Legislature does not represent public sentiment. That has found expression in Western States in the device of the initiative and referendum, a bad substitute for representative government but a substitute because the people have lost faith in their Legislatures.

Mr. Quigg — I move that the further reading be dispensed with and that it be printed and laid on our tables to-morrow.

The President — The Secretary advises the Chair that there are but a few sentences more and perhaps it would be quicker to read it.

The Secretary — "We believe the people will welcome any change in the Legislature which seeks to make it more efficient, just as they have welcomed commission form of government for cities.

The fact that no other State has adopted a unicameral Legislature need not deter New York, for New York as the Empire State should lead the way.

Respectfully submitted,

E. CLARENCE AIKEN,
OTIS A. DENNIS,
J. SIDNEY BERNSTEIN."

Mr. Haffen — Mr. President, to dispose of the whole matter, I second the motion of my Chairman, Mr. Brackett, that the entire matter, this entire subject, go over until next Tuesday.

Mr. J. G. Saxe — Mr. President, I want to press my motion that the resolution, so far as it refers to the election of Senators from Senate districts and Assemblymen from Assembly districts, be referred to the Committee on Suffrage with instructions to report in time for the special orders next Tuesday.

We have had large delegations from all over the State before the Committee, and they have been heard on the question of proportional representation, and it seems to me that we ought to have opportunity to have the Committee heard, to hear their arguments at least, and to make some recommendation at least to the

Convention. I understand that is entirely satisfactory to Mr. Brackett and I think it is to Mr. Wagner.

The President — The motion to postpone until Tuesday takes precedence.

Mr. Brackett — And to make it a special order.

The President — May the Chair call the attention of the gentleman from Saratoga to the fact that motions for a special order appear to require a two-thirds vote or unanimous consent.

Mr. Brackett — Mr. President, I might, answering the suggestion of the gentleman from New York, Mr. Saxe, say, that if this is made a special order for next Tuesday, after the regular call, I will then move that the report be committed to the Suffrage Committee, and that it be directed to report on the regular order next Tuesday, and that will enable us then to have a report from the Committee on Suffrage, which has been laboring on the subject, and at the same time have our special order next Tuesday.

Mr. Wickersham — Mr. President, it seems to me no special order is necessary and none was made in Senator Wagner's motion. If the consideration of the motion, or the resolution is postponed until Tuesday next, it will come up in its regular order, and that is the only other order of business, after the call of districts for resolutions, and after the call of districts for proposed amendments.

Mr. Brackett — Mr. President, I have no objection to that, certainly, and will withdraw any suggestion which is now before the House. I am perfectly willing that the motion should be, that the consideration should be postponed until next Tuesday.

Mr. Wickersham — In the regular order of business.

Mr. Wagner — Yes, in the regular order of business.

The President — There are no general orders as yet; so that the matter of postponement to Tuesday will come up practically as if it were made a special order.

The President — The question is on the motion to postpone until Tuesday next.

Mr. J. G. Saxe — I understood the introducer accepted my amendment.

Mr. Brackett — No, but directly after this motion is carried, I will make a motion which I think will meet your wishes.

The Chairman — All in favor of the motion to postpone the consideration of the report and resolutions from the Committee on the Legislature, Its Organization, etc., until Tuesday next will say Aye, contrary No. The motion to postpone is agreed to.

Mr. Brackett — I now move, inasmuch as the Suffrage Committee is desirous of passing on the same question,— That the report and the resolution which has thus been reported by the Committee on the Legislature, Its Organization, etc., be now referred to the Committee on Suffrage, with directions that it shall make its report on Tuesday morning.

Mr. A. E. Smith — Before that motion is put, we had better have an understanding as to where we are at. This is rather a unique procedure.

Mr. Brackett — Yes, it is.

Mr. A. E. Smith — And I think it would be a bad precedent to establish, and a little later we will be all tied up in knots. Now, the Committee reported this amendment this morning. It is now the property of this Convention. This body has disposed of it by postponing it until Tuesday next.

I would like to have the Senator from Saratoga make me, if he can, understand how he can now refer it to the Committee on Suffrage?

Mr. Brackett — Mr. President, I cannot undertake to make a member understand, of course. Of course, that is impossible. All I can do is to give him reasons why he ought to understand.

There is no practical difficulty in this, Mr. President. The motion is based on the reason that the Suffrage Committee wants to express its opinion on this subject. Sending it to the Suffrage Committee does not interfere with the ruling that has been made, that consideration of it shall be had next Tuesday. I think the wisest committee in all the body has already reported on it, but if there is any minor committee that wants to express its views on the subject, I am perfectly willing to have it done, and have the report made at the time the resolution is considered.

Mr. A. E. Smith — Of course, at this time in the history of the Convention, little courtesies may be all right, by sending these resolutions back and forth between the Committees but the time is going to come when, if this is established as a precedent, it will be the source of a great deal of difficulty.

Now, it would be proper and right for me to raise the point of order that the resolution was disposed of when it was put over until next Tuesday and no other disposition can be made of it.

The President — The Chair sustains the point of order.

Mr. Wickersham — Mr. President, I move that the report and the minority report be printed and distributed among the members and I ask unanimous consent for that motion.

The President — Having been read, they will appear in the Record, and they will be printed as of course.

Mr. Wagner — Mr. President, in order to appease the feelings of the Committee on Suffrage I move that the Committee be requested to present its views upon the reports which have been thus disposed of, and its views to be indicated to the Convention on next Tuesday.

The President — Mr. Wagner moves that the Committee on Suffrage be requested to express its views upon the resolution reported by the Committee on Legislative Organization Tuesday next. Is that the motion?

Mr. Dunmore — Mr. President, will not that require that report to be printed and occasion further delay in the hearing on this question?

Mr. Quigg — Mr. President, I move to amend, that the Committee on Canals, the Committee on Public Utilities and the Committee on the Militia be also so requested to give their views.

Mr. Wagner — I accept the amendment.

Mr. Mereness — Mr. President, I move that the motion and the amendments be laid on the table.

The President — It is moved that the pending motion and the amendments be laid on the table. All in favor of that motion will say Aye, contrary No. The motion is agreed to.

Are there any further reports of standing committees?

Reports of select committees.

Mr. M. Saxe — Mr. President, I submit a report from the Committee on the Commemoration of Magna Charta.

The Secretary — Mr. Saxe, from the Select Committee on the holding of exercises to commemorate the 700th anniversary of Magna Charta, reports that in response to the invitation sent to the President of the United States he received the following reply:

“THE WHITE HOUSE, WASHINGTON, JUNE 2, 1915.

My dear Senator Saxe:

I am very much complimented by the invitation conveyed by your letter of May twenty-fifth to take part in the celebration by the Constitutional Convention of the State of New York of the 700th anniversary of Magna Charta, and wish that I could feel it possible, in spite of the pressure of public business upon me, to take part in the celebration either personally or by written message in a way that would be worthy of so interesting and significant an occasion.

In fact, however, my mind is so preoccupied and my energies so absorbed at present that I know only too well that it would be impossible for me to meet the occasion worthily.

I can only express to you and to all concerned in this kind invitation my warm appreciation and sincere regret.

Very sincerely yours,

WOODROW WILSON."

The President — Are there any further reports of select committees? Third reading. Unfinished business. Special orders. General orders. The Secretary will make the announcements.

Mr. Steinbrink — There has just come to me a proposal with the request that I offer it and since it relates to a subject which may be discussed this afternoon before the Judiciary Committee I ask unanimous consent to offer it at this time.

The President — Without objection the proposed amendment offered by Mr. Steinbrink will be received.

The Secretary — By Mr. Steinbrink, Proposed Amendment to the Constitution.

Second reading. To amend Section 12 of Article VI relating to age limitation and compensation of justices of the Supreme Court and of the Court of Appeals.

The President — Committee on Judiciary. The Secretary will make announcements.

Mr. Wickersham — Mr. President, at the request of Senator Wagner, I call up the resolution from the Committee on Library and Information which was reported on Friday last and under Mr. Quigg's objection went over until to-day, and move the adoption of the resolution reported relative to obtaining certain information from the State Comptroller — page 178 of the Journal.

Mr. Quigg — Mr. President, my only objection to the consideration of the resolution at any time was that the information was in the regular reports. I find on examining the regular reports that there is some slight occasion to dig some of it out and consequently I do not object to the resolution. The principle of the thing I do object to. I think that when these facts are all within our easy getting, the employment of the Committee on Library and Information and the Committee on Printing, and the expense attached to that work, ought not to be undertaken, but in this instance I will not press the objection.

The President — All in favor of the resolution will say Aye, contrary, No. The resolution is agreed to.

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until ten o'clock to-morrow.

Whereupon, at 1:40 P. M., the Convention adjourned to meet Wednesday, June 9, 1915, at 10 o'clock A. M.

WEDNESDAY, JUNE 9, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Arthur B. Obenschain.

The Rev. Mr. Arthur B. Obenschain — Let us pray. Oh Lord of all power and might, Thou who art the Author and Giver of all good things, Thou in whom we live and move and have our being, Thou who art our Creator, Redeemer and Preserver, help us that we may both perceive and know what Thou hast accomplished for us, and may understand what we owe unto Thee in return. Grant unto the members of this Convention true knowledge from on high, that they may bring to pass that which will make for truth, justice and peace in our State. Oh Almighty God, give them Thy Holy Spirit, that they may have a right judgment in all things, that they may know what they should do, and may be given the power faithfully to perform the same. Oh Almighty God, help us and be gracious unto our times, that we may maintain both national quietness and Christian devotion. We ask it in the name and for the sake of Him who gave His life for us, Amen.

The President — Are there any amendments proposed to the Journal as printed and distributed? If there are no amendments the Journal as printed is approved.

Presentation of memorials. Petitions. Are there any memorials or petitions?

Communications, notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Weed — I offer the following resolution and ask that it be referred to the Rules Committee.

The Secretary — By Mr. Weed: Resolved, That Subdivision 1 of Rule No. 50 be amended by inserting after the word "Resolutions" the words "proposed by a committee and resolutions," making said subdivision read as follows, viz.:

1. Resolutions proposed by a committee and resolutions giving rise to debate except such as shall relate to the disposition of business immediately before the Convention, to the business of the

day on which they may be offered, or to adjournments or recesses, shall lie over one day for consideration after which they may be called up as of course under their appropriate order of business.

The President — Without objection that will be referred to the Committee on Rules.

Mr. Low — Mr. President, I ask for the recall from the Committee on Cities of the amendment which I proposed, Introductory No. 313, for its amendment as suggested, its reprint and recommitment to the Committee on Cities.

The President — Is there objection to the order proposed by Mr. Low? Without objection, so ordered.

Propositions for Constitutional Amendment. The Secretary will call the roll.

Mr. Coles — I offer an amendment.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding a new section thereto in relation to Public Service Commissions.

The President — Referred to the Committee on Public Utilities, a copy to the Committee on the Governor and Other State Officers.

Mr. Frank — Mr. President, I offer the following:

The Secretary — By Mr. Frank: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, relative to the taking of private property for public purposes.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Frank: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, relative to the taking of private property for public purposes.

The President — Referred to the Committee on Bill of Rights.

Mr. Adams — I offer the following, by request.

The Secretary — By Mr. Adams, by request: A Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, in relation to the establishment of a board of judicial appointment and control and to define its powers and duties.

The President — Referred to the Committee on the Judiciary.

Mr. Dahm — Mr. President, I offer the following.

The Secretary — By Mr. Dahm, by request: A Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 1, of the Constitution, providing for the initiative and referendum.

The President — Referred to the Committee on Legislative Powers with a copy to the Committee on Legislative Organization.

Mr. Tanner — Mr. President, may I ask that a copy be referred to the Committee on the Governor and Other State Officers?

The President — That order will be made.

Mr. Reeves — Mr. President, I offer the following amendment.

The Secretary — By Mr. Reeves: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article VI of the Constitution, by giving to surrogates in relation to subject-matters over which they have control the same jurisdiction and powers as the Supreme Court has over matters within its jurisdiction.

The President — Committee on the Judiciary.

Mr. Fogarty — Mr. President.

The Secretary — By Mr. Fogarty: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by inserting a section in relation to loss and damage by explosion of pressure-carrying vessels, to be known as steam boiler inspection service.

The President — The Committee on the Governor and Other State Officers with a copy to the Committee on Industrial Relations.

Mr. Bayes — Mr. President, I offer three proposals; the one relating to Article XII is offered at the suggestion of the Fifth Avenue Association of New York.

The Secretary — By Mr. Bayes, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, in relation to conferring power upon cities to regulate the height and use of buildings.

The President — Committee on Cities.

The Secretary — By Mr. Bayes: Proposed Amendment to the Constitution.

Second reading — To amend Article IX of the Constitution, in relation to the exclusion of pupils from the public schools.

The President — Committee on Education.

The Secretary — By Mr. Bayes: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article VI of the Constitution, in relation to the terms of offices of justices of the Supreme Court.

The President — Committee on the Judiciary.

Mr. Sargent — Mr. President, I offer the following proposal.

The Secretary — By Mr. Sargent: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, with relation to monopolies and combinations in restraint of trade.

The President — If there is no other suggestion to be made I will refer that to the Committee on Legislative Powers with a copy to the Committee on Corporations.

Mr. A. E. Smith — Mr. President, I offer the following amendment.

The Secretary — By Mr. A. E. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the power of the Legislature to provide for the assessment of property of a municipal corporation situated outside of the boundaries of the corporation.

The President — Committee on Cities with a copy to the Committee on the Governor and Other State Officers.

Mr. A. E. Smith — Mr. President, that is an amendment empowering the Legislature to enact laws giving the right to some State body, presumably the Tax Commission, to assess the property of a municipality. I believe that, because of its terms, it belongs in the Committee on Legislative Powers.

The President — It may be referred to the Committee on Legislative Powers, a copy to the Committee on Cities.

Mr. Steinbrink — Mr. President, in the absence of the chairman of the Committee on Taxation, since that deals with that subject as well, may I ask that a copy be sent to the Committee on Taxation?

The President — A copy to be sent to the Committee on Taxation.

The Secretary — By Mr. Harawitz: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to appeals as a matter of right in all criminal cases.

The President — Referred to the Committee on the Judiciary.

Mr. Schurman — Mr. President, the Committee on Bill of Rights has been considering that proposition for some time past, and had a hearing upon that very subject. It was one of the first of the Proposed Amendments which was referred to the Committee.

The President — It will go to the Committee on Bill of Rights with a copy to the Committee on the Judiciary.

Mr. A. E. Smith — Mr. President, on behalf of the representative from the Fourteenth District, Mr. Foley, I offer the following amendment.

The Secretary — By Mr. Foley: A Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to legislative bodies of cities of the first class.

The President — Referred to the Committee on Cities.

Mr. T. F. Smith — Mr. President, I offer the following Proposed Amendments.

The Secretary — By Mr. T. F. Smith: A Proposed Amendment to the Constitution.

Second reading — To amend Article VIII of the Constitution, in relation to taxation of State property.

The President — Referred to the Committee on Taxation.

The Secretary — By Mr. T. F. Smith: A Proposed Amendment to the Constitution.

Second reading — To amend Sections 4 and 6 of Article II of the Constitution, in relation to laws governing elections and election officers.

The President — Referred to the Committee on Suffrage.

Mr. Brackett — Mr. President, it is only because of the absence of the chairman of the Committee on Legislative Powers that I make inquiry, that is, ought not that last one previous to the one just read, ought not that also to go to the Committee on Legislative Powers? I suspect that that is a proposal to exempt the city of New York from all kinds of taxes. That is what I think it is.

Mr. T. F. Smith — Mr. President, that proposal deals with the State lands all over the State, and I assume the proper place for it is the Committee on Taxation.

The President — That is, it is not the property of a municipality, but the property of the State.

Mr. Brackett — Well, then, Mr. President, it involves this, I suspect, as to what policy shall be adopted as to the taxation of property situated in the towns, but owned by the State. It is a matter of tremendous concern to the little counties or the little towns where the State has taken a great proportion of the land, whether the State shall bear its proper burden of taxation, or whether it shall be put over on the few citizens of the locality. Ought not that also to go, therefore, to the Committee on Counties and Towns as well?

The President — A copy will be sent to the Committee on County, Town and Village Government.

Mr. J. G. Saxe — Mr. President, I would like to state for the information of the Convention that this is an amendment prepared by the bureau of municipal research, by Mr. John J. Delancy and others. The other amendment will be offered tomorrow.

The Secretary — By Mr. J. G. Saxe: A Proposed Amendment to the Constitution.

Second reading — To amend Articles IV and V of the Constitution prescribing the powers and duties of the Governor and other State officers.

The President — Referred to the Committee on the Governor and Other State Officers.

Mr. Parsons — Mr. President, I offer the following, by request.

Mr. Stimson — Mr. President, in reference to the amendment offered by Mr. J. G. Saxe, may a copy of that be referred also to the Committee on State Finances? I understand it relates to the budget.

The President — A copy will go also to the Committee on State Finances.

The Secretary — By Mr. Parsons, by request: A Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, in relation to the nomination and election of judges of the Court of Appeals and justices of the Supreme Court.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to the taking and regulation of private property for public use.

The President — Referred to the Committee on Bill of Rights.

The Secretary — By Mr. Parsons: A Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 7, of the Constitution, in regard to holding another civil office by members of the Legislature.

The President — Referred to the Committee on Legislative Organization.

Mr. Shipman — Mr. President, I offer the following amendment.

The Secretary — By Mr. Shipman: Proposed Amendment to the Constitution.

Second reading — To amend Section 8 of Article VI of the Constitution, so as to provide for appointive and elective judges of the Court of Appeals.

The President — To the Committee on the Judiciary.

The Secretary — By Mr. Shipman: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article VI of the Constitution, so as to provide for appointive and elective justices of the Supreme Court.

The President — To the Committee on the Judiciary.

The Secretary — By Mr. Shipman: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, Section 3, of the Constitution, relating to corporations.

The President — Referred to the Committee on Corporations.

Mr. F. Martin — Mr. President, I offer the following amendment.

The Secretary — By Mr. F. Martin: Proposed Amendment to the Constitution.

Second reading — To amend Article X of the Constitution, in relation to compensation of public officers and employees while receiving pensions.

The President — To the Committee on the Governor and Other State Officers.

Mr. F. L. Young — Mr. President, I offer the following.

The Secretary — By Mr. F. L. Young: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article IX of the Constitution, in relation to the University of the State of New York and the Board of Regents, and creating a State Department of Education.

The President — Referred to the Committee on Education, a copy to the Committee on the Governor and Other State Officers.

Mr. Rosch — Mr. President, I offer the following amendment.

The Secretary — By Mr. Rosch: Proposed Amendment to the Constitution.

Second reading — To amend Section 11 of Article VIII of the Constitution, so as to provide for changing the name of the State Commission of Prisons to that of the State Board of Corrections and defining its duties.

The President — To the Committee on Prisons and Prevention and Punishment of Crime, a copy to the Committee on the Governor and Other State Officers.

Mr. Quigg — Mr. President, I offer the following amendment.

The Secretary — By Mr. Quigg: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, in relation to civil service appointment and promotion.

The President — Referred to the Committee on Civil Service.

Mr. Austin — Mr. President, I offer the following.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article VII of the Constitution, relative to the power of the Legislature to create debts, prescribing the character of the bonds to be issued as evidencing such debts and providing the manner of payment thereof.

The President — Referred to the Committee on State Finances.

The Secretary — By Mr. Austin: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, Section 8, of the Constitution, relative to the application of funds derived from the lease, sale or other disposition of canal lands.

The President — Committee on Canals, copy to Committee on State Finances.

The Secretary — By Mr. F. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XII of the Constitution, by providing for home rule in cities as to local affairs.

The President — Committee on Cities; copy to Committee on County, Town and Village Government.

The Secretary — By Mr. F. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to the regulation of the flow of streams and the development of water power, and the taking of private property therefor.

The President — Committee on Bill of Rights; copy to Committee on Conservation.

Mr. Schurman — Mr. President, I offer the following.

The Secretary — By Mr. Schurman: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article IX of the Constitution, in relation to the supervision and control of education by the State.

The President — Committee on Education.

The Secretary — By Mr. Nye: Proposed Amendment to the Constitution.

Second reading — To amend Section 20 of Article VI of the Constitution, changing the size of counties in which surrogates and county judges are prohibited from practicing, from 120,000 to 160,000.

The President — Committee on the Judiciary. Mr. Mandeville.

The Secretary — By Mr. Mandeville: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by adding thereto a new section, to be known as Section 5-a, providing for a Court of Claims.

The President — Committee on the Judiciary.

Mr. Johnson — Mr. President, I offer the following.

The Secretary — By Mr. Johnson: Proposed Amendment to the Constitution.

Second reading — To amend Section 6, Article IV of the Constitution, in relation to the conditions under which the Lieutenant-Governor shall act as Governor.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Johnson: Proposed Constitutional Amendment.

Second reading — To amend Section 7, Article IV, relative to the right of succession to the governorship.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Johnson: Proposed Amendment to the Constitution.

Second reading — To amend Section 13, Article VI, relative to the trial of impeachments.

The President — Committee on the Judiciary.

The Secretary — By Mr. Clinton: Proposed Amendment to the Constitution.

Second reading — To amend Section 8 of Article VII of the Constitution, relative to the sale, lease or other disposition of the canals, canal basins, slips and terminals, and disposition of funds.

The President — Committee on Canals.

Mr. Stimson — May a copy of that be referred to the Committee on State Finances?

The President — A copy will be referred to the Committee on State Finances. Mr. Lincoln.

The Secretary — By Mr. Lincoln: Proposed Amendment to the Constitution.

Second reading — To amend Section 11 of Article VII of the Constitution, relating to the payment of State debts out of funds in the State treasury.

The President — Committee on State Finances.

The Secretary — By Mr. Lincoln: Proposed Amendment to the Constitution.

Second reading — To amend Section 12 of Article VII of the Constitution, relating to the creation of indebtedness for highway improvement.

The President — Committee on State Finances; copy to Committee on Public Utilities.

Mr. Deyo — Mr. President, I offer the following.

The Secretary — By Mr. Deyo: Proposed Amendment to the Constitution.

Second reading — To amend Section 11 of Article VI of the Constitution, relative to the removal of judges.

The President — Committee on the Judiciary.

Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business.

General orders.

Mr. J. L. O'Brian — Under unfinished business, I ask to have referred to the Committee on County Government for their information a copy of the Proposed Amendment No. 268, introduced by Mr. Mann, referred to the Committee on Civil Service and dealing with the compensation of public officials within the civil service.

The President — Without objection that order will be made.

Mr. F. Martin — Mr. President, I ask that a copy of the Proposed Amendment, in reference to pensions, be referred also to the Cities Committee as well as to the Committee on the Governor and Other State Officers.

The President — Without objection a copy will be sent to the Committee on Cities. The Secretary asks if Mr. Martin will designate again the proposal that he wishes referred.

Mr. F. Martin — The amendment in reference to pensions where a pension is allowed and a person has been employed in the city or State government, the amount of the pension should be deducted from his salary.

Mr. S. K. Phillips — Mr. President, although that order of business has been passed, I ask permission to submit the following report from the Committee on Contingent Expenses and move the adoption of the resolution referred to in the report.

The President — Without objection the report of the Committee on Contingent Expenses will be received.

The Secretary — The Committee on Contingent Expenses reports back the resolution offered by Mr. Wickersham, June 4th, providing for the printing as a document of the report of the State Comptroller in relation to compensation of county treasurers, with the recommendation that it be adopted.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. M. Saxe — Mr. President, may I submit a report from the Magna Charta Committee?

The Secretary — Mr. M. Saxe, from the select committee on the holding of exercises to commemorate the 700th anniversary of Magna Charta, submits the following report with respect to the seating arrangements in the Assembly Chamber on the evening of June 15th:

The delegates are to occupy their regular seats.

The representatives of the colleges and universities of the State will be assigned to seats in the well.

Seats will be placed around the Chamber and in the rear thereof for the accommodation of the friends of delegates who accompany them to the Chamber that evening; these seats will be reserved until 8 o'clock.

At 8 o'clock the doors will be opened to the general public in so far as the accommodations will allow.

It is respectfully requested that in view of the limited seating capacity of the Assembly Chamber the delegates will co-operate with the Committee in expediting the seating of visitors.

Mr. Berri — Mr. President, — Mr. Charles H. Betts asked me to ask the Convention to excuse him from attendance for the balance of the week.

The President — Is there objection to excusing Mr. Betts for the balance of the week? Without objection permission will be granted.

Mr. Berri — Mr. William Berri asks for the same permission.

The President — Is there any objection to excusing Mr. Berri? Without objection permission is granted.

Mr. Brackett — Mr. President, I am not sure whether I am in the right order of business or not, because I am not sure whether it is a standing or select committee, but there is a little matter of difference between the gentleman from Oswego and myself that must presently be thrashed out, I fear, and I would like to know if the matter of the report of the Committee on Contingent Expenses, with respect to water — I mean not spring water, but common, plain, ordinary water, such as the cows drink, as to whether that water that we are to have here could not be thrashed out now. I understand that the gentleman from Oswego has been busy for the last ten days preparing a speech on the subject. Of course, I do not want to interfere with that, or interrupt the current of his ponderous thoughts on the subject, and if he is not finished with it, I am willing it should come later, but I think that presently we ought to have the matter of the water definitely settled, so that we may know to which one of these two water stands we ought to go when we find ourselves thirsty.

Mr. Cullinan — Mr. President, at the request of the gentleman from Saratoga, I had understood that the matter was to be postponed until he got through trying that will case, and if he is ready, why, perhaps that matter might be taken up, but I would rather have it lie over until next week if he is satisfied with that disposition of the question.

Mr. Brackett — Mr. President, I want to report to the gentleman from Oswego that I am through with the will case, and that I did not get the verdict. If it were possible that a resolution of consolation could be passed here, the few kind words that it would contain might console me. I am entirely willing the debate, which I doubt not will be one of the fiercest battles of the whole Convention, should go over until next Tuesday.

Mr. Wagner — Mr. President, I suggest to the gentleman from Saratoga that there is another matter not quite so important as the question of the water that is to come up next Tuesday, and unless we are satisfied to sit here until midnight, I do not think we ought to have both of the debates on that day. I suggest Friday of next week would be a good day for the water.

Mr. Brackett — I want the gentleman from New York and the gentleman from Oswego to know that I understand the reason of these delays. Great Bear. The gentleman from Oswego is furnishing the water, and of course every time he can postpone the decision it means so much more to the Great Bear Company. I mean to be patient, Mr. President, and on grave matters, I understand we must go slow, but there comes a time when the gentleman from Oswego has got to come to the bat.

Mr. Cullinan — Mr. President, with reference to furnishing the water to the Convention, I also understood that perhaps there might be an application from a source that I do not know very much about as to whether or not we might not substitute grape juice for water for the Convention.

Mr. Wickersham — Mr. President, I rise to a point of order. Grape juice is off the map.

The President — Any further reports of select committees? The Secretary will make announcements.

The President — Is there any further business to come before the Convention?

Mr. Wickersham — Mr. President, I move we adjourn.

The President — All in favor of the motion will say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 10 o'clock to-morrow.

Whereupon, at 11:55 a. m., the Convention adjourned to meet Thursday, June 10, 1915, at 10 o'clock a. m.

THURSDAY, JUNE 10, 1915

The President — The Convention will please be in order. Prayer will be offered by Dr. Rush Rhees.

Dr. Rhees — Almighty God, who art the Fountain of all wisdom and truth, we pray that Thou wouldst endue Thy servants with a spirit of reverence and obedience, that in the deliberations of this hour we may give ourselves wholly unto the doing of that which is right, and that we may be guided by Thy Spirit to devise the things which shall be for the advantage and the profit of our Commonwealth, that we may be kept from all error of judgment, and may be given the help of Thy guidance in the task which has been appointed unto us by the people of this State. Give unto us so earnestly to serve the end of right and truth that our people in the years that are to come may live more securely and more worthily under the laws which may be so enacted through our efforts, to the glory of Thy Holy Name, Amen.

The President — Are there any amendments to be made to the Journal as printed and distributed? If there are no amendments the Journal is approved as printed.

Presentation of memorials and petitions.

Are there any memorials or petitions to be presented?

Mr. T. F. Smith — Mr. President, I wish to present the following memorial and ask for its adoption.

The President — Does Mr. Smith wish the memorial read or referred?

Mr. T. F. Smith — I would like to have it read, Mr. President.

The Secretary — Memorial presented by the Society of Tammany or Columbian Order to the delegates of the Constitutional Convention of the State of New York:

Whereas, There appear to be, and in fact there are, certain interests and influences at work to alter, subvert and abridge those fundamental principles of free government which by reason of the sacrifices of our forefathers are the heritage and birthright of our people; and

Whereas, For more than a century the historic Society of Tammany or Columbian Order has been the constant defender and champion of the masses,

Now, therefore, we, the Council of Sachems of that ancient and patriotic society and in pursuance of the traditional policy of the Columbian Order, do respectfully submit this memorial.

First. We denounce, as opposed to and in contravention of the doctrines of liberty enunciated in the Charter of Liberties and

Privileges drafted by the first Colonial Assembly of this State in 1683, all attempts to tamper with or change the right of trial by jury as it now exists. When, in the days preceding the formation of this Republic, the representatives of the people of the Colony of New York enacted that "ALL TRYALS shall be by the verdict of twelve men, and as near as may be peers or equals and of the neighborhood and in the county Shire or Division where the fact shall arise or grow Whether the same be by indictment infermacon declaration or otherwise against the person offender or defendant," they laid down a guarantee of freedom wrung by their forebears from a despot at a cost too great for calculation.

Yet there are those intrusted with the task of preserving unimpaired these treasured principles, who would, overnight, substitute for them the theoretic notions of unpatriotic legal reformers, forgetting the tremendous price so paid for the privilege of trial by common-law jury — the most precious gem in the diadem of liberty.

Second. The power of the people to elect those who are to sit in judgment upon their liberty and their property rights should never be abrogated; least of all should that power be placed in the hands of a privileged and exclusive coterie, whether composed of lawyers or laymen.

In the undisguised effort being made to deprive our citizens of the right to be judged by judges of their own selection, we perceive an inevitable return to the days of Jeffreys — those black and despairing times when a favored sycophant passed upon the life and liberty of the masses, at the behest of the power which had selected him to wreak its private vengeance. Substitute for a Jeffreys an unscrupulous attorney selected by an insidious and powerful combination of money and monopoly, the greatest menace of modern society, and you have a possibility of injustice and tyranny which will all too soon ripen into a probability. The power of selecting judges should never be placed in hands other than those of the people themselves. Therefore, and in no uncertain terms, we decry the effort to bring about the appointment rather than the election of judges. The influences which would tamper with our jury must not be permitted to steal our judiciary too.

Third. "Taxation without representation" still exists in this otherwise Excelsior State. We demand that you accord to the tax-burdened city of New York some measure of relief from its rural taxmasters; that our metropolis with its population of 5,000,000 receive that fair and just proportion of representation in the State Legislature to which its share of the task of maintaining the State entitles it.

This city of New York is and of right ought to be the free and untrammelled metropolis of the western world; and it is your duty to accord and grant it an unequivocal home rule so that we shall not be at the mercy of rural communities, who do not and in the nature of things cannot understand what is essential and necessary for its growth and welfare.

JOHN F. AHEARN,
ASA BIRD GARDINER,
WAUHOPE LYNN,
GEORGE W. PLUNKITT,
HENRY W. UNGER,
WILLIAM DALTON,
LOUIS F. HAFFEN,

CHARLES F. MURPHY,
JOHN J. SCANNELL,
THOMAS DARLINGTON,
GEORGE W. LOFT,
THOMAS F. McAVOY,
EDWARD C. SHEEHY,

*Counsel of Sachems of the Society of Tammany or
Columbian Order.*

The President — The first part of the memorial will be referred to the Committee on Bill of Rights; second part to the Committee on the Judiciary; second and third and concluding parts to the Committee on Legislative Organization unless there is some other suggestion.

Mr. T. F. Smith — Mr. President, may I ask that it be printed as a document?

Mr. Quigg — Mr. President, I ask that the motion be referred to the Committee on Printing or the Committee on Contingent Expenses.

The President — Mr. Smith moves that this memorial be printed as a document, and under the rule that motion is referred to the Committee on Printing.

Mr. Wickersham — Mr. President, wouldn't that go to the Committee on Contingent Expenses?

Mr. Quigg — Mr. President, I should think that would go to the Committee on Contingent Expenses.

The President — Referred to the Committee on Contingent Expenses.

Mr. Austin — Mr. President, may I ask that a copy of this memorial be sent to the Committee on the Relations of the State to the Indians?

The President — The memorial having been read, it will be found in those copies of the Record which are distributed to the Indian tribes.

Mr. Wood — Mr. President, I desire to present a resolution from the fire companies of my district with reference to the Wickersham amendment, and the Judge Phillips amendment; it is in duplicate and I ask that a copy be sent to the Committee on the Judiciary and a copy to the Committee on Civil Service also.

The President — The memorial will be referred to the Committee on the Judiciary and to the Civil Service Committee also.

Mr. Wood — Yes, I ask that a copy be sent to each committee.

Mr. Deyo — Mr. President, I have a memorial from the Binghamton Engineering Society with reference to the office of State Engineer, and I offer it and I ask to have it referred to the Committee on the Governor and Other State Officers.

The President — That order will be made. Any further memorials or petitions?

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the Lieutenant-Governor and Acting Governor, in reply to a resolution of inquiry adopted by the Convention and dated May 20, 1915, in regard to the persons confined in the State prisons, pardons and applications for pardons.

Are there any further communications from the Governor and other State officers?

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Wickersham — Mr. President, I submit the following resolution and move its adoption. There is only one copy here, but the other copy I will hand up, Mr. Clerk, in a moment.

The Secretary — By Mr. Wickersham: Resolved, That the Secretary cause to be printed for the use of the members of the Convention 500 copies of the rules of the Convention, Printed Document No. 3.

The President — The Chair takes the liberty of calling attention to the fact that that would not call for the printing of the rules as amended.

Mr. Wickersham — Mr. President, I understood the rules as amended are Document No. 3.

The President — The Clerk advises the Chair that you have made amendments since the printing of Document No. 3.

Mr. Wickersham — Then, Mr. President, I ask leave to add to that resolution the words "as amended."

The President — Are you ready for the question upon the resolution?

Mr. Wickersham — I am making this resolution, Mr. President, because I found in the document room that the present supply is entirely exhausted.

The President — All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Mr. Low — Mr. President, may I ask for the recall from the Committee on Legislative Powers of Proposition No. 28, introduced by me, for its amendment as suggested, reprint and recommittal to the Committee on Legislative Powers?

The President — Is there objection to that order? Without objection that order is made.

Mr. Wiggins — Mr. President, the June number of "Case and Comment," which has been placed upon the desks of all the members of the Convention, contains articles upon the subject of justices and inferior courts that have been presented to the Convention by the publishers of Case and Comment. I offer the following resolution with respect to the matter, and ask that before the reading of the same by the Clerk, he read the statement with relation to it so the members may hear it.

The Secretary — The June number of "Case and Comment," placed upon the desks of the members, contains articles upon justices and inferior courts, which subject is now before this Convention and have been presented to the Convention by the publishers of that magazine.

By Mr. Wiggins: Whereas, The publishers of Case and Comment have presented to the members of the Constitutional Convention the June number of that magazine which contains articles upon justices and inferior courts, which subjects are now before this Convention; now, be it

Resolved, That this Convention, through its Secretary, express to the publishers of Case and Comment its appreciation of the courtesy shown the members of this Convention in the presentation of such magazine to them.

Mr. Wickersham — Mr. President, I do not want to seem ungracious, but we have received so many of these publications that if we begin adopting resolutions of thanks every time a publication is laid on our desks I think the Records of this Convention will be unduly cumbered with that sort of lumber. I therefore object to the resolution.

Mr. Tuck — I move that the Committee on the Judiciary be discharged from further consideration of Bill No. 164, that it be amended as indicated, reprinted and recommitted.

The President — Is there objection to that order? The Chair hears none and the order is made accordingly.

Mr. Kirby — I offer the following resolution.

The Secretary, reading — By Mr. Kirby: Resolved, That the Comptroller be directed to furnish the Convention with the amounts paid during the last fiscal year to special counsel to the Attorney-General, the amounts paid to attorneys and counsels of the various departments of the State government, and the amounts paid to attorneys in the various counties of the State in the matter of the collection of transfer taxes.

The President — Committee on Library and Information.

The President — Propositions for Constitutional Amendments. The Secretary will call the roll of districts.

Mr. Coles — Mr. President, I offer the following amendment.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Section 26 of Article III of the Constitution, in relation to boards of supervisors.

The President — Committee on County, Town and Village Government.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to optional plans for the government of counties.

The President — Committee on County, Town and Village Government.

Mr. Coles — Mr. President, would it not be well that copies of those Proposed Amendments be sent also to the Committee on Legislative Powers?

The President — A copy of each will be sent to the Committee on Legislative Powers.

The Secretary — By Mr. Coles: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, by adding a section thereto providing for the distribution to libraries and schools of books, pamphlets and maps published by the State.

The President — Committee on Education. Does Mr. Coles desire any other reference? The Chair will refer this to the Committee on Education unless there is some other suggestion.

Mr. Coles — I should think, Mr. President, that a copy of that also should be sent to the Committee on Legislative Powers. It relates to legislation.

The President — That order will be made.

The Secretary — By Mr. Bannister: Proposed Amendment to the Constitution.

Second reading — To amend Article VII of the Constitution, in relation to disposition of State moneys derived from transfer taxes.

The President — The Committee on State Finances.

Mr. Reeves — Mr. President, I offer the following.

The Secretary — By Mr. Reeves: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, in relation to a land division of the Supreme Court.

The President — Committee on the Judiciary.

Mr. Steinbrink — Mr. President, the Civil Service Reform Association has forwarded to me this proposal, which I offer, at their request.

The Secretary — By Mr. Steinbrink, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, in relation to employees in the civil service of the State.

The President — Committee on Civil Service.

Mr. Bannister — Mr. President, by request of Mr. Bayes, I present the following, and also Proposed Amendments at the request of Mr. Latson, who is absent.

The President — The Secretary will report the Proposed Amendment.

The Secretary — By Mr. Bayes: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XI of the Constitution, in relation to persons subject to militia and military service.

The President — Committee on Bill of Rights, and a copy to the Committee on Military Affairs.

The Secretary — By Mr. Latson, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article XI of the Constitution, in relation to the unorganized militia.

The President — Committee on Military Affairs.

The Secretary — By Mr. Latson, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article XI of the Constitution, in relation to the appointment of military officers by the Governor.

The President — Committee on Military Affairs, and a copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Latson, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XI of the Constitution, in relation to the composition of the State militia.

The President — Committee on Military Affairs.

The Secretary — By Mr. Latson, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article XI of the Constitution, in relation to the organization of the militia.

The President — The Committee on Military Affairs.

The Secretary — By Mr. Latson, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 5 of Article XI of the Constitution, in relation to manner of election of military officers prescribed by the Legislature.

The President — Referred to the Committee on Military Affairs with a copy to the Committee on Legislative Powers.

The Secretary — By Mr. Latson, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article XI of the Constitution, in relation to the removal of commissioned officers for absence without leave.

The President — Referred to the Committee on Military Affairs with a copy to the Committee on the Governor and Other State Officers.

Mr. Buxbaum — Mr. President, in the absence of Judge Brenner, I submit the following, by request.

The Secretary — By Mr. Brenner: Proposed Amendment to the Constitution.

Second reading — To amend Sections 17 and 18 of Article VI of the Constitution, in relation to local judicial officers and local courts in cities.

The President — Referred to the Committee on the Judiciary.

Mr. A. E. Smith — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. A. E. Smith. Proposed Amendment to the Constitution.

Second reading — To amend Article IX of the Constitution, in relation to repealing Section 4 thereof, relative to State aid for denominational schools.

The President — Referred to the Committee on Education, unless there is some other suggestion. The Chair would propose that this go to the Committee on Education.

Mr. A. E. Smith — Mr. President, I don't know that I have any objection, but the resolution is really empowering the Legislature to make an appropriation or to authorize a civil division of the State to make an appropriation in aid of denominational schools. It could very properly go to the Committee on Powers and Duties of the Legislature. However, I have no objection to the reference as made.

The President — It may go to the Committee on Education with a copy to the Committee on Legislative Powers.

Mr. Ahearn — Mr. President, I offer the following.

The Secretary — By Mr. Ahearn: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by providing for the creation of a child welfare commission for the trial of juvenile delinquents.

The President — Referred to the Committee on Prisons, Prevention and Punishment of Crime, and a copy to the Committee on the Judiciary.

Mr. Tanner — Mr. President, as that relates to a commission, I ask that a copy be sent to the Committee on the Governor and Other State Officers.

The President — That order will be made.

Mr. A. E. Smith — Mr. President, on behalf of Senator Foley, I offer the following.

The Secretary — By Mr. Foley: Proposed Amendment to the Constitution.

Second reading — To amend Article XIV, by adding a new Section 2, providing for constitutional amendment by initiative, and renumbering the present Sections 2 and 3.

The President — Referred to the Committee on Future Amendments.

Mr. Tanner — Mr. President, on behalf of Mr. John G. Saxe, I offer the following.

The Secretary — By Mr. J. G. Saxe: Proposed Amendment to the Constitution.

Second reading — To amend Articles IV and V of the Constitution, prescribing the powers and duties of the Governor and other State officers and establishing the several administrative divisions of the executive government.

The President — Referred to the Committee on the Governor and Other State Officers.

Mr. Stimson — Mr. President, inasmuch as that Proposed Amendment contains a provision relating to the budget, I ask for a copy to the Committee on State Finances.

The President — With a copy to the Committee on State Finances.

Mr. Stimson — Mr. President, I offer the following amendment.

The Secretary — By Mr. Stimson: Proposed Amendment to the Constitution.

Second reading — To amend Article VI, in relation to the nomination of judges.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Stimson: Proposed Constitutional Amendment.

Second reading — To amend Article VI, Section 18, of the Constitution, in relation to the jurisdiction of inferior or local courts.

The President — Referred to the Committee on the Judiciary.

Mr. Parsons — I offer the following.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by adding a section providing for advisory opinions of the Court of Appeals upon the constitutionality of proposed statutes.

The President — Committee on the Judiciary.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article VII by adding a new section to authorize the acquisition of forests.

The President — Committee on Conservation and Natural Resources.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article V, to establish a State Department of Labor.

The President — The Committee on Industrial Relations, and a copy to the Committee on the Governor and Other State Officers.

Mr. Low — I offer the following.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to grants of lands under water.

The President — Unless Mr. Low has some other suggestion, the Chair will send that to the Committee on Public Utilities.

Mr. Low — Mr. President, I would suggest that it be referred to the Committee on Conservation.

The President — Committee on Conservation and Natural Resources.

Mr. Clinton — I ask that a copy be sent to the Committee on Canals, as it affects or may affect the canal terminals.

The President — A copy of the amendment introduced by Mr. Low and already reported will be sent to the Committee on Canals. The Secretary will report the Second Proposed Amendment offered by Mr. Low.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Article III, to establish a legislative drafting bureau.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Low, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the granting of franchises.

The President — Committee on Legislative Powers with a copy to the Committee on Cities.

Mr. Low — Mr. President, I think the reference to the Committee on Legislative Powers is ample.

The President — Then the reference will be to the Committee on Legislative Powers.

The Secretary — By Mr. Low, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the granting of lands under water.

The President — Committee on Conservation and Natural Resources.

Mr. Clinton — Mr. President, I ask that a copy be sent to the Committee on Canals.

The President — With a copy to the Committee on Canals.

Mr. Tanner — I offer the following.

The Secretary — By Mr. Tanner: Proposed Amendment to the Constitution.

Second reading — To amend Section 19 of Article III of the Constitution, in relation to the passage of private claim bills.

The President — Committee on Legislative Powers.

Mr. Eisner — I offer the following.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article II of the Constitution, in relation to the qualifications of voters.

The President — Committee on Suffrage.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Article IV, Section 4, of the Constitution, in relation to the Governor's power of removal.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, by adding a new article, or section, in relation to the powers of cities and villages.

The President — Committee on Cities, and a copy to the Committee on County, Town and Village Government.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Article I, Section 19, of the Constitution, by substituting a new section in relation to social and industrial justice.

The President — Committee on Industrial Relations, and a copy to the Committee on Legislative Powers.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Sections 1, 2, 3 and 4 of Article V of the Constitution, in relation to the short ballot and eliminating the necessity of confirmation by the Senate of the Governor's appointments.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, by incorporating at the end thereof a new section, to be known as Section 30, in relation to the initiative and referendum.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Eisner: Proposed Amendment to the Constitution.

Second reading — To amend Article XIII, by adding at the end thereof a new section, to be known as Section 7, in relation to the recall.

Mr. Eisner — That is introduced by request and I would like to have it so appear on the Record.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. Eisner, by request: Proposed Amendment to the Constitution.

Second reading — To amend the Constitution, by adding a new article in relation to the determination of the constitutionality of statutes.

The President — Committee on the Judiciary.

Mr. Griffin — Mr. President, I offer the following proposition.

The Secretary — By Mr. Griffin: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, by striking out therefrom Section 4, relating to enumerations and reapportionments, and substituting in the place thereof a new section dispensing with the State census and basing the apportionment of Senators and Assemblymen upon the number of voters participating in the elections for Governor.

The President — Committee on Legislative Organization.

Mr. Wiggins — Mr. President, I offer the following.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading: To amend Section 18 of Article VI of the Constitution, in relation to inferior local courts, by increasing the territorial and personal jurisdiction.

The President — The Committee on the Judiciary.

The Secretary — By Mr. Wiggins: Proposed Amendment to the Constitution.

Second reading — To amend Section 17 of Article VI of the Constitution, in relation to justices of the peace in cities and fixing their territorial jurisdiction.

The President — Committee on the Judiciary.

Mr. Rosch — I offer the following.

The Secretary — By Mr. Rosch: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article VI of the Constitution, in relation to the Legislature grading the salaries of county judges and surrogates according to the population of the respective counties.

The President — Committee on the Judiciary.

Mr. Vanderlyn — Mr. President, I offer the following.

The Secretary — By Mr. Vanderlyn: Proposed Amendment to the Constitution.

Second reading — To amend Section 17 of Article VI, conferring the judicial functions of the justices of the peace in the towns of the State on duly elected trial justices.

The President — Committee on the Judiciary.

Mr. Clearwater — I offer the following.

The Secretary — By Mr. Clearwater: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by adding a new section thereto, to be known as Section 14, in relation to the establishment and jurisdiction of Children's Courts and Courts of Domestic Relations.

The President — Committee on the Judiciary, and a copy to the Committee on Prisons and the Prevention and Punishment of Crime.

The Secretary — By Mr. Clearwater: Proposed Amendment to the Constitution.

Second reading — To amend Section 11 of Article VIII of the Constitution of the State of New York, in relation to the State Probation Commission.

The President — The Committee on Prisons and the Prevention and Punishment of Crime.

Mr. Stimson — Mr. President, I should like to have a copy of that sent to the Committee on the Governor and Other State Officers.

The President — Copy to the Committee on the Governor and Other State Officers.

Mr. Mealy — Mr. President, I offer the following amendment, by request, and also introduce one for Mr. Barnes, in his absence.

The Secretary — By Mr. Mealy, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article III, in relation to the operation of motor bus lines in cities.

The President — Committee on Public Utilities with a copy to the Committee on Cities.

The Secretary — By Mr. Barnes: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article III of the Constitution, in relation to the limitation of the power of the Legislature to pass private or local bills.

The President — The Committee on Legislative Powers.

Mr. Ostrander — Mr. President, I offer the following amendment.

The Secretary — By Mr. Ostrander: Proposed Amendment to the Constitution.

Second reading — To amend Article XII, Section 2, in relation to special city laws and their return to the Legislature.

The President — Referred to the Committee on Cities.

Mr. Angell — Mr. President, I offer the following.

The Secretary — By Mr. Angell: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding a new section thereto, providing for a Conservation Advisory Board.

The President — The Committee on Conservation of Natural Resources with a copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Angell: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VII of the Constitution, by changing the boundaries of the Forest Preserve, permitting the removal of matured timber therefrom, etc.

The President — The Committee on Conservation of Natural Resources.

The Secretary — By Mr. Angell: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding a new section to provide for a Conservation Commission.

The President — The Committee on Conservation of Natural Resources with a copy to the Committee on the Governor and Other State Officers.

Mr. Tierney — Mr. President, I offer the following amendment.

The Secretary — By Mr. Tierney: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article VI of the Constitution, in relation to requiring the offices of county judge

and surrogate to be combined in one officer in counties having a population of not over 120,000.

The President — The Committee on the Judiciary.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to powers of the Legislature to pass bills, and of State agencies and officials to adopt regulations.

The President — The Committee on Legislative Powers.

The Secretary — By Mr. Dunmore: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to powers of the Legislature to pass bills and of State agencies and officials to adopt regulations.

The President — The Committee on Legislative Powers.

Mr. L. M. Martin — Mr. President, on the part of Mr. R. B. Smith, I offer the following.

The President — The propositions submitted by Mr. L. M. Martin for Mr. R. B. Smith will be reported when Mr. Smith's district is called.

Mr. Cullinan — Mr. President, I offer the following.

The Secretary — By Mr. Cullinan: Proposed Amendment to the Constitution.

Second reading — To amend Section 10 of Article I of the Constitution, in respect to the ownership by the State of all waters within its jurisdiction.

The President — Committee on Canals with a copy to the Committee on Conservation of Natural Resources.

The Secretary — By Mr. Cullinan: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to taxing the sale of cigarettes.

The President — Committee on State Finances with a copy to the Committee on Taxation, or perhaps the other way, the reference will be made to the Committee on Taxation with a copy to the Committee on State Finances.

The Secretary — By Mr. Cullinan: Proposed Amendment to the Constitution.

Second reading — To amend that part of Section 4 of Article VII of the Constitution, relative to voting upon the question of authorizing the State to contract indebtedness.

The President — Committee on State Finances.

The Secretary — By Mr. Cullinan: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article V of the Constitution, creating a Department of Commerce and Navigation, having jurisdiction over the canals, harbors, waterways and water-borne transportation.

The President — Committee on Canals with a copy to the Committee on the Governor and Other State Officers.

By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 16 of Article III of the Constitution, in regard to private and local bills.

The President — Committee on Legislative Powers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the power of the Legislature to regulate certain financial transactions in business.

The President — Committee on Legislative Powers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the power of the Legislature to regulate dealing in securities.

The President — Committee on Legislative Powers. A copy of this Proposed Amendment and the one last before as reported will be sent to the Committee on Banking and Insurance.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by repealing Section 8 thereof, in relation to prohibiting the creation of certain offices.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to the powers and duties of the State Treasurer.

The President — Committee on the Governor and Other State Officers.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to legislative counsel.

The President — Committee on Legislative Powers; copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Green: Proposed Amendment to the Constitution.

Second reading — To amend Article X of the Constitution, in relation to the office of commissioner of jurors.

The President — The Committee on the Judiciary.

The Secretary — By Mr. Green, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to voting for Assemblymen.

The President — Committee on Suffrage.

The Secretary — By Mr. Green, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the method of choosing members of Assembly in the city of New York.

The President — Committee on Legislative Organization; copy to the Committee on Suffrage.

Mr. Low — A copy to the Committee on Cities, also, Mr. President?

The President — A copy to the Committee on Cities.

The Secretary — By Mr. Mandeville: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, to provide for inferior local courts.

The President — The Committee on the Judiciary.

The Secretary — By Mr. Mandeville, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article III of the Constitution, relating to the manner of passing bills.

The President — The Committee on Legislative Powers.

The Secretary — By Mr. Mandeville, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article VI of the Constitution, in relation to the Court of Appeals.

The President — Committee on the Judiciary.

The Secretary — By Mr. Mandeville, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article VI of the Constitution, creating judicial departments, Appellate Divisions, etc.

The President — Committee on the Judiciary.

The Secretary — By Mr. Mandeville, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article VI of the Constitution, in relation to testimony in equity cases.

The President — Committee on the Judiciary.

The Secretary — By Mr. Parmenter, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, Sections 11 and 12, of the Constitution, to create a Department of Charities and Corrections as a division of the executive branch of the State government.

The President — The Committee on the Governor and Other State Officers.

The Secretary — By Mr. Parmenter, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article X, in relation to the method of selection of sheriffs, county clerks, district attorneys and registers.

The President — The Committee on County, Town and Village Officers.

The Secretary — By Mr. Parmenter, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article VI of the Constitution, in order to establish a district court of inferior jurisdiction, in place of the Justices of the Peace Court.

The President — The Committee on the Judiciary.

The Secretary — By Mr. Leggett: Proposed Amendment to the Constitution.

Second reading — To amend Sections 1 and 2 of Article II of the Constitution, in relation to the persons who shall be qualified to exercise the elective franchise.

The President — Referred to the Committee on Suffrage.

The Secretary — By Mr. Tuck: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to compensation for damage from change of grade for a street or highway.

The President — Referred to the Committee on Bill of Rights.

Mr. Curran — Mr. President, in the absence of Delegate Dahm, I offer the following.

The Secretary — By Mr. Dahm: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to the legality of acts done by two or more persons in concert.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Dahm: Proposed Amendment to the Constitution.

Second reading — To amend Section 8, Article I, of the Constitution, in relation to the right of free speech and to criminal prosecutions for libel.

The President — Referred to the Committee on the Judiciary.

Mr. Marshall — Mr. President, does that belong to the Bill of Rights, under Article I?

The President — The reference will be changed to the Committee on Bill of Rights.

The Secretary — By Mr. Dahm: Proposed Amendment to the Constitution.

Second reading — To amend Articles III and IV of the Constitution, in relation to terms of office of State Senators.

The President — Referred to the Committee on Legislative Organization.

Mr. Curran — Mr. President, in behalf of Mr. O'Connor, I offer the following.

The Secretary — By Mr. O'Connor: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article III of the Constitution, in relation to eliminating provisions permitting the passage of bills by emergency messages from the Governor.

The President — Referred to the Committee on Legislative Powers.

The Secretary — By Mr. O'Connor: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to the establishment of a Department of Labor and Workmen's Compensation Commission as separate bodies.

The President — Referred to the Committee on Industrial Relations, and a copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. O'Connor: Proposed Amendment to the Constitution.

Second reading — To amend Section 19, Article I, of the Constitution, in relation to providing for a State fund as the exclusive method for securing payment of workmen's compensation.

The President — I think that should go to the Committee on Bill of Rights with a copy to the Committee on Industrial Relations.

Mr. Parsons — Mr. President, should that not go to the Committee on Industrial Relations with a copy to the Committee on State Finances? This amendment provides for a State fund with which to pay workmen's compensation insurance.

The President — Referred to the Committee on Industrial Relations with a copy to the Committee on Bill of Rights and to the Committee on State Finances.

Mr. Franchot — Mr. President, the following is introduced by request.

The Secretary — By Mr. Franchot, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to criminal prosecutions and to admitting a plea of guilty before indictment except upon a charge of murder.

The President — Referred to the Committee on the Bill of Rights.

The Secretary — By Mr. Kirby: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article V of the Constitution, relative to the office of Attorney-General.

The President — Referred to the Committee on the Governor and Other State Officers.

Mr. Sears — Mr. President, I offer this Proposed Amendment.

The Secretary — By Mr. Sears: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article X of the Constitution, to provide that certain county officers shall be elected in odd numbered years, and to provide for the terms of office of such officers so as to conform thereto.

The President — Referred to the Committee on County, Town and Village Government with a copy to the Committee on County, Town and Village Officers.

Mr. Low — Mr. President, ought it not to go to the Cities also?

Mr. Sears — Mr. President, it does not include cities.

The Secretary — By Mr. Sears: Proposed Amendment to the Constitution.

Second reading — To amend Section 10 of Article VI of the Constitution, by providing that in every election of a chief or associate judge of the Court of Appeals or of a justice of the Supreme Court, the Governor shall nominate a candidate.

The President — Referred to the Committee on the Judiciary.

The Secretary — By Mr. Lincoln: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XIII of the Constitution, relative to official oaths prescribing the effect of taking a false official oath or affirmation.

The President — Referred to the Committee on Bill of Rights with a copy to the Committee on Prevention and Punishment of Crime.

Mr. Whipple — Mr. President, I offer the following.

The Secretary — By Mr. Whipple: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to establishing an Excise Department in charge of a commissioner.

The President — Referred to the Committee on the Governor and Other State Officers.

Mr. Westwood — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Westwood: Proposed Amendment to the Constitution.

Second reading — To amend certain sections of Article VI, by abolishing the Appellate Division of the Supreme Court and increasing the number of judges of the Court of Appeals, thereby providing for a single appellate court; by abolishing the Court of Claims, the County Courts, the Surrogates' Courts, the Court of General Sessions of the Peace in and for the city and county of New York and the City Court of the city of New York and conferring their jurisdiction upon the Supreme Court, thereby providing for a single court of record of original jurisdiction; and by providing for uniform inferior courts not of record in cities of the first class, and uniform inferior courts not of record in the balance of the State.

The President — Referred to the Committee on the Judiciary.

Mr. Parsons — Mr. President, I ask that a copy of Proposed Amendment No. 510, Introductory No. 498, be sent to the Committee on Industrial Relations for its information.

The President — Without objection that order will be made.

Reports of standing committees.

Mr. McKinney — Mr. President, by direction of the Committee on Taxation, I offer a Proposed Amendment to the Constitution, and by direction of the same Committee a report for which immediate consideration is asked.

Mr. Brackett — Mr. President, I make the point of order that the committees must report in the order of the rules.

The President — If that is asked for it must be done.

Mr. Steinbrink — Mr. President, I think that Rule 30 provides that proposals by delegates should be in accordance with the number of districts, but that proposals may emanate from committees under reports of committees.

Mr. Brackett — "Committees shall report in the following order," that is the language, if I remember.

Mr. Steinbrink — Rule 30 reads, "No proposition for Constitutional Amendment shall be introduced in the Convention, except in one of the following modes."

The President — Rule 3, Order of Business, provides for reports of standing committees in the order stated in Rule 15. The Secretary will call the list of committees as contained in Rule 15.

Mr. Brackett — Mr. President, the Committee on Legislative Organization submits the following report.

The Secretary — The Committee on the Legislature, Its Organization and the Number, Apportionment, Election and Tenure of Office, herewith reports adversely to the Convention Proposed Amendments as follows: Print No. 41, Introductory No. 41, introduced by Mr. McKinney; Print No. 232, Introductory No. 230, introduced by Mr. Kirk; Print No. 279, Introductory No. 276, introduced by Mr. Schurman; Print No. 303, Introductory No. 299, introduced by Mr. Bernstein.

In making this report, the Committee states to the Convention that there are in each of the amendments thus proposed and reported adversely certain provisions which are favored by members of the Committee, perhaps a majority thereof, but the amendments as proposed, taken each as a whole, are opposed to the two principles which the Committee deemed vital, to wit:

First. That the Legislature should consist of a Senate and Assembly, and

Second. That the members of the Senate should be elected by districts and the members of Assembly should be elected by districts.

Because of the variance of these several Proposed Amendments with these cardinal principles to which the Committee has committed itself, as expressed in the substituted resolutions reported by the Committee, in place of those offered by Mr. Quigg and referred to the Committee, these adverse reports are made to the Convention.

Mr. Brackett — Mr. President, solely in the interests of the convenience of the members, I suggest and move that the Committee report be printed and its consideration be postponed until next Tuesday, at which time the Chair will recall there is to be a debate on a resolution on somewhat the same subject. It is only that we may have everything together and that the debate may not be duplicated that I make that suggestion.

The President — Any further print than the Record, which will follow from its having been read?

Mr. Brackett — That will be sufficient.

The President — Is there any objection to the motion to postpone consideration of report of the Committee on Legislative Organization until Tuesday next? The Chair hears none, and the consideration is postponed accordingly.

Mr. S. K. Phillips — The Committee on Contingent Expenses submits the following report, and I move the adoption of the resolution embraced in the report.

The Secretary — By Mr. S. K. Phillips of the Committee on Contingent Expenses. The Committee reports back the communication addressed by the Legislative Index Publishing Company to

the Hon. Elihu Root, President of the Convention, under date of June 2, 1915, upon the subject of furnishing an index and record of all Proposed Amendments for use of the delegates, with a recommendation that the following resolution be adopted:

Resolved, That the Secretary contract with the Legislative Index Publishing Company for 170 copies of the Legislative Index, one for each delegate, and two for the Secretary, at a cost of \$18.50 each.

The President — Is the Convention ready for the consideration of the resolution?

Mr. Wiggins — Mr. President, what does that mean, \$18.50 each; a week; or what?

Mr. Wickersham — For the session.

The President — If there is no objection to the consideration of the resolution, all in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. McKinney — Mr. President, I offer the report of the Committee on Taxation, and I move its adoption.

The Secretary — The Committee on Taxation reports herewith a proposal for the establishment of a State Tax Commission.

From a study of the development of State taxation throughout the country it appears that beginning with 1843 special State tax commissions were instituted for investigating the subject of taxation. This led to the establishment of permanent tax commissions in the various States.

Approximately half of the States of the Union now have permanent tax commissions. As a result of the work of these bodies, a noticeable advance in the methods of administration of tax laws has ensued. By reason of the process of education necessarily incidental to any change in a method or system of taxation, the development of improvement in tax systems is slow and tedious. It is, therefore, important that the quality of continuity be given to the work of the State Tax Commission to the end that a harmoniously comprehensive system of taxation may be properly and intelligently developed. With the changes of State administration the desirable quality of permanency in the State Tax Commission is constantly endangered.

On account of the tremendous cost of government, with its tendency to increase rather than diminish, the subject of taxation now occupies a foremost place in the public mind and the desirability of the development of proper systems of taxation along permanent lines is of paramount importance.

For the foregoing reasons the Committee on Taxation makes the recommendation for the establishment of a constitutional State Tax Commission.

The Committee requests that the accompanying proposal and report be referred back to this Committee and a copy thereof sent to the Committee on the Governor and Other State Officers, etc., for its information and opinion in connection with the policy of establishing constitutional commissions.

Respectfully submitted,
MARTIN SAXE,
Chairman.

The President — The Secretary will read the Proposed Amendment.

The Secretary — By the Committee on Taxation: Proposed Amendment to the Constitution.

Second reading — To amend Article V, by inserting a new section, providing for the establishment of a State Tax Commission.

The President — Referred to the Committee on Taxation.

Mr. Wagner — Mr. President, as a matter of inquiry, may I inquire whether the Proposed Amendment proposes to continue the present State Tax Commission?

Mr. C. A. Webber — No, it does not.

Mr. McKinney — The Committee desires that the report be adopted now, if agreeable to the Convention.

Mr. Wickersham — Mr. President, I understand the report requests no action, except that which is involved in the reference to the Committee as requested.

Mr. McKinney — The recommendation made by the Committee, Mr. President, as I understand it, is that action shall now be taken on it.

The President — The report seems to be confined to giving reasons for the Proposed Amendment, and the reference of the amendment to the Committee on Taxation seems to carry a recommitment of the report; and a copy of the amendment will also be sent to the Committee on the Governor and Other State Officers.

Mr. Brackett — Do I understand that this is a report from the Committee on Taxation?

The President — Yes.

Mr. Brackett — Of a proposed amendment?

The President — Yes.

Mr. Brackett — Of its own motion?

Mr. McKinney — Yes, sir.

Mr. M. Saxe — May I explain, Mr. President? This is merely the introduction of a proposal by a committee. That is all.

Mr. Brackett — Then I submit that it should go to general orders.

Mr. M. Saxe — Now, Mr. President, the rules prescribe two methods for the introduction of propositions; Rule 30, I think it is, Subdivisions 1 and 2. The rule reads: "No proposition for Constitutional Amendment shall be introduced in the Convention, except in one of the following modes: First, under the order of introduction of propositions for Constitutional Amendment by districts in numerical order; second, by report of a committee."

Now, this is an introduction of a Proposed Amendment by report of a committee.

Mr. Brackett — Just as I supposed, Mr. President. Now, then, if any one will consider a moment or two that there is being referred to a committee a proposition which it has already considered and introduced, the futile fallacy or the fallacious futility of sending it back to the Committee, that has just solemnly given the result of its wisdom in a report, is apparent.

In its report on this important bill, it gives the essence of its wisdom to this body, and this report has no longer any place with the Committee on Taxation. The amendment should go into general orders unless otherwise ordered.

Mr. M. Saxe — The purpose of the report, in this instance, is to have the proposal printed and recommitted. Now, in no other way could the proposal be printed and recommitted. The Committee does not desire to lose entire control of the proposal.

Mr. Brackett — Then the Committee ought not to make a report, if it is not satisfied with what it has reported.

Mr. M. Saxe — In no other way can the public possibly be advised of it. The purpose is to have it printed, so that the public and the Convention may be advised.

Mr. Brackett — Mr. President, that the Committee can have it printed in another way, I do not doubt. It is such a silly performance and procedure, not referring to the substance of the amendment, because I am like Little Joe, I know that all which comes from my Brother Saxe is good — but it is such a silly performance to have a committee solemnly make a report, which is a certificate to this body, that it has considered and maturely determined, and therefore submits its report, to have it say now, we want that sent back to us for consideration. Keep it, and then you have got it without any submission here. Keep it until your Committee knows what it wants to do with it. It should be kept in the Committee until the Committee agrees upon it, and until it knows whether it is ready to report on it or not.

It seems to me that the best and the most regular way would be for the Committee to withdraw this report from further consideration, and wait until it knows its own mind, and then report it. I am willing to stretch a point if there is a way to help

out the Brother, and I am anxious to do all that I can; but it certainly must be that, under the rules, a report of a committee, unless there is a special direction given with respect to it, must go to general orders.

Mr. Tanner — Mr. President, it seems to me that the plan proposed by Senator Brackett is an ideal way of preventing co-operation between committees. It seems to me the proposition advanced by Senator Saxe has the essence of common sense in it. The result of their deliberations, according to the recommendation of the report, is to be referred to the Committee on the Governor and Other State Officers. Now, I understand in an early part of the proceedings that Senator Brackett approved of that method.

Mr. Brackett — If the proposition is to have the report of the Committee on Taxation referred to the Committee on the Governor and Other State Officers, then I withdraw everything I said.

Mr. Tanner — That has been done here. I understood it was so asked by the chairman of the Committee on Taxation.

Mr. Brackett — Mr. President, if that is so every mean thing I have said I withdraw.

Mr. C. A. Webber — The introduction of this report in this way was pursuant, as we supposed, to the ruling that had been made by the President, as to the introduction of resolutions, or of amendments, rather, upon subjects in reference to which no amendment had been presented to a committee.

We understood that the Chair had made a ruling that the Committee could not present an amendment in a report which had never been presented to it. There has been no amendment upon this subject presented to our Committee, and it desires to introduce an amendment, and it thinks that this is the proper method of doing it, and bringing it, as an original amendment, before the Convention.

Mr. Quigg — Is the pending question a motion by Senator Saxe to recommit his proposal to his Committee and to send a copy of it to the Committee on the Governor and Other State Officers?

The President — There is no pending question.

Mr. Quigg — If it is not, the question raised by Senator Brackett's suggestion I hope will not be raised, if what Senator Saxe wants is merely to get recovery of his proposal and have a copy of it sent to the Committee on the Governor and Other State Officers, because there is no use meeting this issue, until we get an occasion to meet it.

The disposition of a proposal that comes from a committee as a committee proposal is one that the President must carefully

consider, in view of his statement to the House the other day that he had somewhat changed his mind about what he had said on the subject, but that the procedure, after the introduction, was still open.

Now, to my mind, I differ entirely with the Senator from Saratoga. I believe that I have got a right to object the minute that a proposal comes from a committee. I think I have got a right to have it read the first time in full. I think I have got a right then to debate it. I think I have got a right to recommit—or to move to recommit it. I think I have got a right to all the motions that are allowed in the rules that I can make on the first reading. On the second reading, I have got them again, before it goes to the Committee. I have got a right to move—to make various motions in regard to their disposition in committees, or to committees.

All that is taken away from me if a committee proposal can come in here as a new matter and go right into general orders. Now, that is my parliamentary objection to this disposition that Senator Brackett suggests.

I don't know what the practice is in the Senate; I never was a member there. I don't know what it is in the Assembly; but neither of those bodies is controlling upon us, and I know what the rules are here, and I know what my general parliamentary rights are, and I hope that until we get a case where this is important, that the pending question will be changed to a motion by Senator Saxe to take his proposal back and give it to the Committee on Taxation.

Mr. J. L. O'Brian—A point of order.

The President—Mr. O'Brian will please state his point of order.

Mr. J. L. O'Brian—There is no business pending before the House.

Mr. Quigg—Mr. President, there is a point of order raised by Senator Brackett.

Mr. Brackett—Mr. President, may we have the disposition of the resolution read, so that we in this part of the House may be refreshed as to what was done with the report?

The President—The stenographer will read the disposition made by the Chair.

Mr. Brackett—Cannot the Secretary tell us what disposition was made of it?

The Secretary—Referred to the Committee on Taxation with a copy to the Committee on the Governor and Other State Officers.

Mr. Brackett—Mr. President, permit me to explain my position. Do not let any one think that I am proposing anything

which will interfere with his rights. All I want to stand for is this proposition: That if a committee report comes into this body, without any special order, it goes into general orders. There is no other way it can be handled.

It cannot be referred, as of course, under the rules, back to the Committee whence it came. It would be a most peculiar state of affairs, that a committee should submit a report and then have it referred back to the same committee. If they want the Committee on the Governor and Other State Officers to have a copy, and if they want that Committee to express an opinion, what is the objection to giving them a copy, without making a report?

I simply suggest that the Committee on Taxation should not submit a report and request that it be sent back to the Committee simply because they desire to have the amendment printed, the Proposed Amendment printed, and a copy sent to the Committee on the Governor and Other State Officers. I realize that this body can order anything it desires, whether legal or not, if it can get enough votes to do that. There is no doubt about that. It is a law unto itself. If it wants to disregard the rule, it can do so, although it is not a wise thing to do.

I have no objection, of course, to a copy going to the Committee on the Governor and Other State Officers, and I haven't any objection in this case as a special order of the House, that the amendment go back to the Committee on Taxation, and it certainly goes back there, unless there is a motion especially carried in the House to the contrary.

The President — The Chair has ruled upon the point of order which he understands to have been raised. This Proposed Amendment to the Constitution has been introduced by the Committee on Taxation, acting, the Chair supposes, under the provisions of Rule 30, which reads: "No propositions for Constitutional Amendment shall be introduced in the Convention, except in one of the following modes, namely, First, under the order of introduction of propositions for Constitutional Amendment by districts in numerical order; Second, by report of a committee."

The Committee on Taxation does not report this amendment and recommend its passage. As appears from the report which it has made, the Committee has not passed upon the Proposed Amendment, but it confines its action to introducing the amendment with the request that it be referred back for its consideration, and a copy sent to the Committee on the Governor and Other State Officers.

The Chair rules that the amendment is regularly introduced under the provisions of Rule 30.

The amendment thus introduced has been read the first time, it has been read the second time, and without objection, that is, by unanimous consent, after the Chair had clearly called, affording an opportunity for objection, the amendment was, in accordance with the request of the Committee on Taxation, referred back to that Committee for its consideration, and a copy was ordered to be sent to the Committee on the Governor and Other State Officers.

It was undoubtedly competent for the Convention, at the request of the Committee on Taxation, to deal with the amendment as it saw fit. The Chair cannot see any other conclusion to be reached from the rules than that the introduction of the amendment was regular, the course followed in regard to it was regular, and unless the right of the Committee to introduce the amendment at all is to be taken away from it — that the committees are to reserve the right to introduce amendments is a very different thing from reporting the amendment and recommending its passage and the amendments when they are introduced must be dealt with by the Convention in a different way from the amendments which are reported by a committee after consideration, and with recommendations. The Chair feels bound, therefore, to overrule the point of order.

Are there any reports from the select committees?

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Clerk will make the announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow.

Whereupon, at 11:45 a. m., the Convention adjourned to meet Friday, June 11, 1915, at 10 a. m.

FRIDAY, JUNE 11, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Charles M. Nickerson.

The Rev. Mr. Nickerson — Let us pray. Lord of all power and might, the Author and Giver of all good things, who hast taught us in Thy Holy Word that all our doings without Thee are nothing worth, send Thy blessing, we beseech Thee, upon the members of this Convention. Save them from ignorance and from evil influences. Grant them intelligence and wisdom and an open mind. Give them courage to do the things they believe to be right. May the result of their labors and their deliberations here conduce to the welfare of the people of this Commonwealth, the impartial administration of justice, the enactment of wise and just and beneficent laws, all of which we ask for the sake of Thy Son, Our Saviour, Jesus Christ. Amen.

The President — Are there any amendments to be made to the Journal as printed and distributed? There being no amendments the Journal is approved as printed.

Presentation of memorials and petitions. The Chair hands down a communication in the nature of a memorial regarding compulsory vaccination. Referred to the Committee on Bill of Rights.

The Chair hands down also a communication in the nature of a memorial from Mr. Leonard Klaber relating to actions upon public causes by taxpayers which is referred to the Judiciary Committee.

Communications from the Governor and Other State Officers. There is before the Convention a communication from the Department of Highways in response to a call for information by the Convention.

Notices and motions and resolutions. The Secretary will call the roll of districts.

Mr. Stimson — Mr. President, I offer the following resolution and ask unanimous consent for its immediate consideration.

The Secretary — Resolved, That the addresses of the Hon. John J. Fitzgerald, President Frank J. Goodnow, President A. Lawrence Lowell and the Hon. William H. Taft before the Committee on the Governor and Other State Officers and the Committee on State Finances be printed as a document of the Convention and distributed to the delegates thereto.

The President — Unanimous consent for present consideration is asked for; is there objection? The Chair hears none and the resolution is before the Convention.

Mr. Parsons — I suggest that the last words there are unnecessary, in view of the provisions of the rule that if it is printed as a document it will be distributed.

Mr. Stimson — I accept the amendment.

Mr. Parsons — Therefore I suggest that the words "and distributed to the delegates thereto" be stricken out.

The President — In accordance with the suggestion the resolution stands without the concluding words. All in favor of the resolution as corrected will say Aye, contrary No. The resolution is agreed to.

The Secretary — By Mr. Parsons: Resolved, That the Secretary be authorized to pay to the clergymen who open the Convention with prayer the same compensation for their services as is paid for opening the Senate and Assembly.

Mr. Parsons — Mr. President, I ask for the immediate consideration of the resolution and its adoption.

The President — Is there any objection to the immediate consideration of the resolution? The Chair hears none. The resolution is before the Convention. All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Mr. Tanner — I ask that a copy of the following Proposed Amendments be sent to the Committee on the Governor and Other State Officers for their information and opinion: Introductory No. 435, by Mr. R. B. Smith; Introductory No. 455, by Mr. Baldwin; Introductory No. 458, by Mr. J. G. Saxe, and Introductory No. 461, by Mr. F. Martin.

The President — Without objection that order will be made.

Mr. Parsons — Mr. President, I ask that a copy of No. 555, Introductory No. 540, be sent to the Committee on Industrial Relations for its information and opinion.

The President — If there is no objection, that order will be made.

The President — Propositions for Constitutional Amendments. The Secretary will call the roll of districts.

The Secretary — By Mr. Weed: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article XII of the Constitution, by adding thereto provisions in relation to local self-government of cities.

The President — Referred to the Committee on Cities.

The Secretary — By Mr. Weed: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, by inserting therein a provision relating to Spanish War Veterans.

The President — Referred to the Committee on Civil Service.

The Secretary — By Mr. Buxbaum: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article IV of the Constitution, in relation to the reconsideration by the Legislature of thirty-day bills not approved by the Governor, and certain special city bills.

The President — Referred to the Committee on Legislative Powers with a copy to the Committee on the Governor and Other State Officers, and a copy to the Cities Committee.

The Secretary -- By Mr. Buxbaum: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article IV of the Constitution, in relation to reconsideration by the Legislature of thirty-day bills not approved by the Governor, and certain special city bills.

The President — Same reference.

Mr. Steinbrink — Mr. President, the law department of the city of New York has forwarded to me four proposals, which I offer at its request; and the Municipal Court justices have forwarded to me a proposal which I offer at their request.

The Secretary — By Mr. Steinbrink, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to taking private property for public use.

The President — Referred to the Committee on Bill of Rights, with a a copy to the Committee on Canals.

The Secretary — By Mr. Steinbrink, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article X of the Constitution, by inserting an additional section relating to pensions of officers and employees.

The President — Referred to the Committee on the Governor and Other State Officers with a copy to the Committee on Cities.

The Secretary -- By Mr. Steinbrink, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to exemptions from taxation.

The President — Referred to the Committee on Taxation with a copy to the Committee on Cities, and a copy to the Committee on Finance.

The Secretary — By Mr. Steinbrink, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 24, of the Constitution, by adding thereto a provision relating to taxation.

The President — Referred to the Committee on Taxation with a copy to the Committee on the Governor and Other State Officers.

The Secretary — By Mr. Steinbrink, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 17 of Article VI of the Constitution, in relation to the Municipal Court of the city of New York.

The President — Referred to the Committee on the Judiciary.

Mr. M. J. O'Brien — At the request of Mr. Baldwin, I introduce the following.

The Secretary — By Mr. Baldwin, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, by inserting therein a new section relating to revision of Code amendments by the chief judge of the Court of Appeals and the presiding justices of the Appellate Division before final enactment into law.

The President — Committee on the Judiciary.

Mr. Tanner — I offer the following amendment.

The Secretary — By Mr. Tanner: Proposed Amendment to the Constitution.

Second reading — To amend Article IV of the Constitution, in relation to the power of the Governor to remove officers appointed by him.

The President — Committee on the Governor and Other State Officers.

Mr. Wickersham — Mr. President, I offer the following:

The Secretary — By Mr. Wickersham: Proposed Amendment to the Constitution.

Second reading — To amend Section 18 of Article III of the Constitution.

The President — Committee on Legislative Powers.

Mr. Low — I offer the following amendment.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the alteration of boundaries of municipalities.

The President — Committee on Cities, and a copy to the Committee on County, Town and Village Government.

Mr. C. Nicoll — Mr. President, I offer the following, by request.

The Secretary — By Mr. C. Nicoll, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to the composition of the Senate and Assembly and the terms of members.

The President — Committee on Legislative Organization.

Mr. Parsons — On behalf of Mr. Bell, who is engaged in a hearing before the Committee on Charities, I offer the following.

The Secretary — By Mr. Bell: Proposed Amendment to the Constitution.

Second reading — To repeal Section 5 of Article IV of the Constitution, relating to the pardoning power of the Governor, and to amend Sections 11 and 12 of Article VIII of the Constitution, so as to provide for the creation of a State Board of Pardons and a transfer to it of the pardoning power now vested in the Governor.

The President — Committee on the Governor and Other State Officers, a copy to the Committee on Prisons, and for the Prevention and Punishment of Crime.

Mr. Parsons — Mr. President, I offer the following.

The Secretary — By Mr. Parsons, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 15 of Article III, in relation to the manner of passing bills.

The President — Committee on Legislative Powers.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article VII, Section 5, of the Constitution, to avoid the unnecessary accumulation of sinking funds.

The President — Committee on State Finances.

The Secretary — By Mr. Parsons: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding a new section to provide for a budget.

The President — Committee on State Finances.

Mr. Parsons — I suggest, Mr. President, that a copy of that be sent to the Committee on Legislative Powers.

The President — That order may be made.

Mr. Tanner — And I ask that a copy may be sent to the Committee on the Governor and Other State Officers.

The President — That order may be made.

Mr. Leary — Mr. President, I offer the following.

The Secretary — By Mr. Leary: Proposed Amendment to the Constitution.

Second reading — To add new section, 7-a, to Article VII, for the establishment of a special fund, for the propagation of fish and game and reforestation of State lands.

The President — Committee on State Finances with a copy to the Committee on Conservation of Natural Resources.

Mr. Leary — Mr. President, on behalf of Mr. Donnelly, who is unable to be here to-day, I offer four amendments.

Mr. Clinton — The previous Proposed Amendment to the Constitution sent to the Committee on Finances with a copy to the Committee on Conservation — I think the reference should be reversed. It should go to Conservation with a copy to the Committee on Finances. It is a subject which peculiarly belongs to Conservation.

Mr. Stimson — If, as the title indicated, it was for the purpose of using the State funds to reforest the Forest Preserve I rather coincide with Mr. Clinton's view of it.

The President — Very well, the reference will be reversed. The proposition will be referred to the Committee on Conservation with a copy to the Committee on State Finances.

The Secretary — By Mr. Donnelly: Proposed Amendment to the Constitution.

Second reading — To amend the tax provisions of the Constitution, by providing that not less than 50 per cent. of certain specific taxes shall be repaid to the city, town or village in which such taxes originated.

The President — Committee on State Finances.

The Secretary — By Mr. Donnelly: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, relative to the taking of private property, and to provide for the payment of damages for change of grade.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Donnelly: Proposed Amendment to the Constitution.

Second reading — To amend Section 26 of Article III, relative to boards of supervisors, limiting their powers and conferring upon a purchasing agent the right heretofore exercised by boards of supervisors in the purchase of supplies, and providing for a county comptroller and for the auditing of bills.

The President — Committee on County, Town and Village Government.

The Secretary — By Mr. Donnelly: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article V, by providing for the appointment of State officers by the Governor, by and with the advice and consent of the Senate.

The President — Committee on the Governor and Other State Officers.

Mr. C. A. Webber — On behalf of Mr. F. Martin, I offer the following.

The Secretary — By Mr. F. Martin: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article I of the Constitution, in relation to allowing certain appeals by the people in criminal cases.

The President — Committee on Bill of Rights with a copy to the Committee on the Judiciary.

Mr. Hinman — Mr. President, I offer the following Proposed Amendments.

The Secretary — By Mr. Hinman: Proposed Amendment to the Constitution.

Second reading — To amend Sections 11, 13 and 15 of Article VIII of the Constitution, and to repeal Section 12 of Article VIII and Section 4 of Article V of the Constitution, relative to the establishment of a State Board of Charities and Corrections, and the appointment and powers and duties of such board.

The President — Committee on Charities with a copy to the Committee on the Governor and Other State Officers.

Mr. Hinman — I wish to suggest that a very similar resolution introduced by Mr. Mandeville was sent to the Committee on the Governor and Other State Officers with a copy to the Committee on Charities. I would suggest, however, Mr. President, that a copy be sent to both Prisons and Charities.

The President — The reference will be then to the Committee on the Governor and Other State Officers with copies to the Committees on Charities and Prisons and the Prevention and Punishment of Crime.

The Secretary — By Mr. Hinman: Proposed Amendment to the Constitution.

Second reading — To amend Section 6 of Article X of the Constitution, in relation to the fiscal year, and to monthly meetings of the Legislature and the payment of salaries and expenses of the members thereof.

The President — Committee on Legislative Organization.

Mr. Stimson — If that relates to the date of the fiscal year, Mr. President, may I ask that a copy be sent to the Committee on State Finances, which is also interested in that?

The President — With a copy to the Committee on State Finances.

The Secretary — By Mr. Hinman: Proposed Amendment to the Constitution.

Second reading — To amend the Constitution, by adding a new article creating Public Service Commissions and prescribing their jurisdiction, powers and duties.

The President — Committee on Public Utilities with a copy to the Committee on the Governor and Other State Officers.

Mr. Barnes — Mr. President, I offer the following.

The Secretary — By Mr. Barnes: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to public utilities.

The President — Committee on Public Utilities.

Mr. McKean — Mr. President, I offer the following, by request.

The Secretary — By Mr. McKean, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, in relation to employees in the civil service of the State.

The President — Committee on Civil Service.

The Secretary — By Mr. McKean, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, in relation to employees in the civil service of the State.

The President — Committee on Civil Service.

Mr. F. L. Young — Mr. President, on behalf of Senator Brackett, I offer two Proposed Amendments. I am not acquainted with their contents but I have observed that they are very nearly identical in phraseology; nevertheless, he intends to have both introduced.

The Secretary — By Mr. Brackett: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article I of the Constitution, in relation to lotteries and sales of lottery tickets, pool selling, book-making and gambling.

The President — Committee on Bill of Rights.

The Secretary — By Mr. Brackett: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article I of the Constitution, in relation to lotteries, sales of lottery tickets, pool selling, book-making and gambling.

The President — The same reference.

Mr. Hale — Mr. President, on behalf of Mr. Landreth, Thirty-first district.

The Secretary — By Mr. Landreth: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to a State Department of Engineering and Public Works.

The President — Committee on the Governor and Other State Officers.

Mr. Van Ness — I offer the following.

The Secretary — By Mr. Van Ness: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII of the Constitution, in relation to the issuance of State and municipal securities and providing for their advertisement.

The President — Committee on State Finances, and a copy to the Committee on Cities.

Mr. Waterman — I offer the following.

The Secretary — By Mr. Waterman: Proposed Amendment to the Constitution.

Second reading — To amend Sections 11, 12, 13 and 15 of Article VIII of the Constitution, and to insert a new section in such article, in relation to the State Board of Charities, providing for visiting and inspecting of private institutions and societies.

The President — Committee on the Governor and Other State Officers, and a copy to the Committee on Charities.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article VIII of the Constitution, in relation to voting by shareholders at all corporate elections of stock corporations.

The President — Committee on Corporations.

The Secretary — By Mr. E. N. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article VII of the Constitution, by adding thereto a provision in relation to serial bonds.

The President — Committee on State Finances, and a copy to the Committee on Cities.

Mr. Cobb — I offer the following amendments, by request. That with relation to municipal self-government is suggested by the law department of the city of Syracuse.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, relating to cities and incorporated villages, so as to regulate legislation concerning their organization and management, and to give them powers of municipal self-government.

The President — Committee on Cities, and a copy to the Committee on County, Town and Village Government.

The Secretary — By Mr. Cobb, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article II of the Constitution, in relation to registration of voters in rural communities.

The President — Committee on Suffrage.

The Secretary — By Mr. Cobb: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article II of the Constitution, in relation to persons excluded from the right of suffrage.

The President — Committee on Suffrage.

The Secretary — By Mr. Cobb, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to members of the Senate and Assembly practicing as attorneys before the executive and administrative departments of the State.

The President — Committee on Legislative Organization.

Mr. Green — Under the call of the Thirty-ninth district, I offer the following.

The Secretary — Mr. Green: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article II of the Constitution, in relation to the qualifications of voters.

The President — Committee on Suffrage.

The Secretary — By Mr. Green, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 and Section 2 of Article XII of the Constitution, in relation to the incorporation of and legislation affecting cities and villages.

The President — Committee on Cities with a copy to the Committee on County, Town and Village Government.

The Secretary — By Mr. Green, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to the office of State Commissioner of Jurors, and to qualifications for jury service.

The President — Referred to the Committee on the Judiciary with a copy to the Committee on the Governor and Other State Officers.

Mr. Rhees — Mr. President, I offer the following, by request.

The Secretary — By Mr. Rhees, by request: Proposed Amendment to the Constitution

Second reading — To amend Section 9 of Article V of the Constitution, in relation to providing for the enforcement of provisions of this Constitution, and of law relating to the civil service.

The President — Referred to the Committee on Civil Service.

The Secretary — By Mr. Rhees, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 9 of Article V of the Constitution, in relation to the State Civil Service Commission and its powers and duties.

The President — Same reference. Mr. Tuck.

The Secretary — By Mr. Tuck: Proposed Amendment to the Constitution.

Second reading — To amend Section 3 of Article XI of the Constitution, in relation to service in the organized active militia of the State.

The President — Referred to the Committee on Military Affairs.

Mr. Curran — Mr. President, I offer the following in behalf of Delegate Dahm, and also one by myself, and I desire to say that it differs somewhat from all others introduced.

The Secretary — By Mr. Dahm: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, providing for initiative and referendum.

The President — Referred to the Committee on Legislative Powers.

The Secretary — By Mr. Curran: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, by providing for the abolition of capital punishment.

The President — Referred to the Committee on Bill of Rights.

Mr. Franchot — Mr. President, I offer the following Proposed Amendment.

The Secretary — By Mr. Franchot: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, so as to provide for an optional system of home rule in cities.

The President — Committee on Legislative Powers, Mr. Franchot?

Mr. Franchot — Mr. President, I suggest that it be referred to the Committee on Cities with a copy to the Committee on Legislative Powers.

The President — Referred to the Committee on Cities with a copy to the Committee on Legislative Powers, and a copy to go also to County, Town and Village Government?

Mr. Franchot — I have no objection whatever, but it refers more specifically to cities and only incidentally to villages.

The President — Well, the reference will be to the Cities Committee with a copy to the Committee on Legislative Powers.

The Secretary — By Mr. Franchot: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article II of the Constitution, by providing that in the event of the approval by the people at the general election in the year 1915 of the amendment of said section proposed by the Legislature granting the

right of suffrage to women the said Section 1 of Article II shall be amended as set forth in the said amendment proposed by the Legislature.

The President — Referred to the Committee on Suffrage.

The Secretary — By Mr. Sears: Proposed Amendment to the Constitution.

Second reading — To amend Sections 4 and 8 of Article VI and Section 5 of Article X of the Constitution, so as to provide for the election of the chief and associate judges of the Court of Appeals and justices of the Supreme Court in odd numbered years only.

The President — Referred to the Committee on Judiciary.

Mr. Sanders — Mr. President, I offer the following in behalf of Mr. Nixon, and I also offer Proposed Amendments on behalf of Mr. Westwood and one by myself.

The Secretary — By Mr. Sanders: Proposed Amendment to the Constitution.

Second reading — To amend Section 10 of Article VIII of the Constitution, in relation to limitation upon the power of cities to incur indebtedness.

The President — Referred to the Committee on Cities. Any other suggestion, Mr. Sanders?

Mr. Sanders — I have no other suggestion, Mr. President.

The Secretary — By Mr. Nixon: Proposed Amendment to the Constitution.

Second reading — To amend Article IX, Section 4, making school inspection compulsory and compelling exclusive use of English text-books.

The President — Referred to the Committee on Education.

The Secretary — By Mr. Westwood: Proposed Amendment to the Constitution.

Second reading — To amend Section 13 of Article III of the Constitution, by limiting the number of bills which may be passed weekly by the Houses of the Legislature.

The President — Referred to the Committee on Legislative Powers.

Mr. Wickersham — Mr. President, referring to bill Introductory No. 377, Print No. 384, I move to discharge the Committee from consideration of that bill, to amend it in accordance with this amendment, and that the amended bill be referred back to the Committee.

The President — Without objection that order will be made.

Reports of standing committees.

Mr. Parsons — Mr. President, I ask that the reference of No. 597, Introductory No. 582, be changed from the Committee on

the Governor and Other State Officers to the Committee on Industrial Relations. Exactly the same proposition was introduced by Mr. Franchot some weeks ago and was referred to the Committee on Industrial Relations.

Mr. Tanner — I have no objection, Mr. President, but I would like a copy of the bill sent to the Committee on the Governor and Other State Officers.

The President — Without objection the reference will be changed from the Committee on the Governor and Other State Officers to the Committee on Industrial Relations with a copy to the former.

Reports of standing committees.

Mr. S. K. Phillips — Mr. President, I make the following report and move the adoption of the resolution contained in the report of the Committee on Contingent Expenses.

The Secretary — By Mr. S. K. Phillips: The Committee on Contingent Expenses recommends the adoption of the following resolution: Resolved, That the Secretary be authorized and directed to contract for a supply of individual sanitary drinking cups.

The President — Is there objection to present consideration of the resolution? The Chair hears none and the resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Further reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 12 o'clock noon on Tuesday next.

Whereupon, at 10:55 a. m., the Convention adjourned to meet at 12 o'clock noon, Tuesday, June 15, 1915.

TUESDAY, JUNE 15, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. John B. Bulnes.

The Rev. Mr. Bulnes — Let us pray. Almighty God and our Heavenly Father, we come before Thee with grace and thanksgiving, to thank Thee for Thy living kindness and tender mercies. We thank Thee for all the good things and all the good gifts that have been bestowed upon us in our life, from our cradle to this day. Father, we pray Thee that Thou wilt bless every one to-day in this difficult business that they are undertaking. We look to Thee, Father, for authority, and we thank Thee because we know that the very first law in Heaven is the law of order and government and rule and obedience. So, Father, bless these men, as many of them have left their homes, families, wives and children, and are here to-day and because in this Empire State, all people of intelligence, men and women, are interested in what they are doing. We ask, Father, that through and by Thy Spirit Thou wilt lead each one, that Thou wilt bless them, guide them and direct them in all that they are to undertake. Father, bless their families, return them to their various homes safe again. Again, Father, we pray Thee that Thou wilt bless all who have assembled, and may they be fearless, and may they not think of what men shall think of them; may they not ponder upon those things so much as they shall ponder upon that the living God is everlasting, and that His eyes see the very recesses of our hearts and souls. Father, bless them, and help them to realize, and the people of the State to realize, that they are only human, and that the human heart is so liable to make mistakes and err, and that only by Thy Divine guidance shall we go aright. All these things we ask in the name of Jesus Christ, our Lord. Amen.

The President — Are there any amendments to be made to the Journal as printed and distributed? There being no amendments the Journal is approved as printed.

Presentation of memorials.

Mr. Westwood — I offer a memorial from 231 residents of the village of Fredonia, in favor of the abolition of exemptions, which I ask to be referred to the Committee on Taxation.

The President — That reference will be made. Are there any other further memorials or petitions? The Chair lays before the Convention a memorial from the New York State Federation of Labor, which will be referred to the Committee on Bill of Rights, with a copy to the Committee on Industrial Relations.

Also a memorial from Mr. S. B. Clarke, which will be referred to the Committee on the Judiciary.

Also a memorial from the Interdenominational Committee on Education of New York city, which will be referred to the Committee on Education.

Also a memorial from Charles M. Higgins of Brooklyn, against compulsory vaccination, which will be referred to the Committee on Bill of Rights. If there are no further memorials or petitions — communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Tanner — I ask that a copy of Proposed Amendments, Introductory numbers as follows, be sent to the Committee on the Governor and Other State Officers for their information and opinion: No. 541, introduced by Mr. Stimson; No. 547, by Mr. Low; No. 558, by Mr. Eisner; No. 601, by Mr. O'Connor, and No. 657, introduced by Mr. Reeves; No. 658, introduced by Mr. Reeves, and No. 460, by Mr. F. Martin.

The President — Without objection that order will be made.

Mr. Low — Mr. President, I ask that the Proposed Amendments, Introduction Nos. 624, 632, 639 and 640 be sent to the Cities Committee for their information and opinion.

The President — Without objection that order will be made.

Mr. Low — On behalf of Mr. Schurman, Vice-President of the Convention, I ask that he be excused from attendance to-day and to-morrow, as the commencement exercises at Cornell University take place to-morrow.

The President — Is there any objection to the excuse asked on behalf of Mr. Schurman? There being no objection the excuse is granted.

Mr. Barnes — We have two bills in the Committee on Legislative Powers which we think are improperly referred, and I should like to send them up and ask that they be referred again.

The President — Mr. Barnes moves that the Committee on Legislative Powers be discharged from further consideration of Proposed Amendment, Introductory No. 326, introduced by Mr. Ray B. Smith, and that this amendment be referred to the Committee on Finance. Is there any objection? Without objection that order will be made.

Mr. Barnes also moves that the Committee on Legislative Powers be discharged from further consideration of Proposed Amendment introduced by Mr. Wadsworth, Introductory No. 417, and that that amendment be referred to the Committee on Legislative Organization. Is there any objection? There being no objection that order is made.

Mr. Lincoln — I move that the Committee on the Judiciary be discharged from further consideration of proposition, Introductory No. 608, Print No. 623, that the same be amended as indicated, reprinted and recommitted.

The President — Mr. Lincoln moves that the Committee on Judiciary be discharged from further consideration of Proposed Amendment, Introductory No. 608, Print No. 623; that the amendment be amended as indicated, reprinted and recommitted to the Committee on the Judiciary. Is there any objection? Without objection that order will be made.

Mr. Whipple — There are seven bills before various committees that the Committee on Conservation of Natural Resources would like to have copies of sent to that Committee. I transmit to the desk for the information of the Clerk the numbers of the bills referred to.

The President — The Clerk will read the numbers of the bills to which Mr. Whipple refers.

The Secretary — By Mr. Low, No. 28; by Mr. E. N. Smith, No. 85; by Mr. Cobb, No. 222; by Mr. Bernstein, No. 172; by Mr. Weed, No. 264; by Mr. J. G. Saxe, No. 510; by Mr. Parsons, No. 512.

The President — Without objection, copies of the Proposed Amendments enumerated will be sent to the Committee on Conservation of National Resources.

Mr. Whipple — I offer the following resolution, Mr. President.

The Secretary — By Mr. Whipple: Resolved, That the official stenographer be, and he is hereby, directed to arrange for the prompt attendance of the general stenographers at 9 o'clock sharp on Tuesdays, Wednesdays, Thursdays and Friday, and for at least three of said stenographers to attend each Monday and each Saturday forenoon.

The President — Is there objection to the present consideration of the resolution?

Mr. J. L. O'Brian — It seems to me that the resolution is one relating to the details of the business of the House; so that it might have proper consideration, it might better be referred for action to the Committee on Rules, for a report and opinion.

Mr. Whipple — Mr. President, as I understand it, we put into the hands of the official stenographer the control of the stenographers. I found, on staying over Friday to do work Saturday, that there was no one here. Coming Monday morning, there was no one here, therefore my two or three days were entirely lost. They receive pay for every day. I do not know why some of them should not stay, and the official stenographer having charge, by your resolution, it seems entirely proper for him

to make the arrangement, and it seems to me to be the proper arrangement. I hope that it may be left that way.

Mr. J. L. O'Brian — I ask that the resolution be referred to the Committee on Rules.

The President — The Chair does not think that the resolution goes to the Committee on Rules, as a matter of course. It can be sent by a vote of the Convention.

Mr. J. L. O'Brian — I so move, Mr. President.

Mr. Whipple — I trust, Mr. President, that that motion will not prevail because it is entirely and properly a matter for the official stenographer. The Committee on Rules has nothing to do about it.

Mr. Mereness — Mr. President, I move to amend that motion, that the Committee on Rules be required to report before the close of the session on Thursday.

Mr. J. L. O'Brian — The amendment is satisfactory.

The President — The question is on the motion of Mr. O'Brian amended, that this resolution be referred to the Committee on Rules, with instructions to report at the session of Thursday of this week. All in favor of the motion will say Aye, contrary No. The Noes appear to have it. The Noes have it. All in favor of the resolution offered by Mr. Whipple will say Aye, contrary No. The resolution is agreed to.

Mr. Brackett — Mr. President, as I understand the order of proceeding, the order of petitions and memorials is now ended.

The President — It is.

Mr. Brackett — I ask leave, therefore, by unanimous consent, the next order of business having heretofore been the order in which this comes, I ask unanimous consent to introduce a Proposed Amendment to the Constitution, which I do by request, by request of the New York State Sanitary Officers Association.

The President — Is there objection? The Chair hears none, and the Proposed Amendment to the Constitution will be received and read.

The Secretary — By Mr. Brackett, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article VIII, by adding a new section to be numbered 16, in relation to the duties, maintenance and support of the State Department of Health.

The President — Is there any suggestion about the reference to committee? This would go naturally to the Committee on the Governor and Other State Officers. Unless there is some other suggestion, that reference will be made, with a copy to the Committee on State Finances.

Mr. Brackett — Mr. President, is there a Committee on Public Health?

The President — There is no such committee. Referred to the Committee on the Governor and Other State Officers, with a copy to the Committee on State Finances.

Reports of standing committees is the order, by Rule 50. The Secretary will read the list of committees.

Mr. Barnes — The Committee on Legislative Powers offers the following report.

The Secretary — Mr. Barnes, for the Committee on Legislative Powers, to which was referred the Proposed Amendment introduced by Mr. Austin, No. 34, entitled "To amend Article I of the Constitution, by striking therefrom the provisions of Section 13 of said article, relating to leases and grants of agricultural land," reports in favor of the passage of same without amendment, which report was agreed to, and said proposition was referred to the Committee of the Whole.

The President — The question is upon agreeing to the report of the Committee. The language of the rule upon this subject is rather peculiar. The understanding of the Chair is that when the report of the Committee is made, it is in the hands of the Convention, to do what it pleases, and an affirmative vote upon the motion to agree with the report amounts to an acceptance of the report and the reference of it to the Committee of the Whole. The Proposed Amendment referred to then goes into general orders to be considered in the Committee of the Whole so that the effect of agreeing to the report under the rule appears to be simply to send it to the Committee of the Whole.

Mr. Sheehan — Mr. President, do I understand that the President holds that when a committee reports in favor of a proposition, before it goes to the Committee of the Whole, or general orders, the Convention must pass a resolution agreeing to the report? My understanding of the old rule was, years ago, that when a committee reported in favor of a bill, it went automatically to general orders, or to the Committee of the Whole. The distinction that I desire to draw, Mr. President, is that if the Convention votes in favor of the approval of the report, whether or not it may not be held thereby later on to have practically bound itself to sustain the report?

Mr. Wickersham — Mr. President, the language of Rule 32 is rather ambiguous in that regard, and some time, if this is an appropriate time, I am going to submit a motion that the words "if the report be agreed to" be stricken out of that rule so that it shall read, "All amendments reported shall be committed to the Committee of the Whole, and immediately printed."

Mr. Barnes — Mr. President, I withdraw that report temporarily, in order to make that motion and have it settled. Why don't you make it now, Mr. Wickersham?

Mr. Wickersham — Then I will now make that motion and ask for unanimous consent for its consideration; that Rule 32 be amended by striking out the words in the sixth line, "If the report be agreed to," so that that sentence will read, "All Proposed Constitutional Amendments reported shall be committed to the Committee of the Whole and immediately printed."

Mr. Brackett — I see no possible objection to the adoption of the resolution, but I concur entirely with Governor Sheehan in the proposition that if there is no other motion made to dispose of the report, it goes automatically into the Committee of the Whole of the Convention, if the present rule is left, if the report is agreed to, if there is no objection made, or no other motion.

The President — If the report is agreed to by unanimous consent.

Mr. Brackett — That is, as evidenced by no objection being made.

Mr. Wagner — Mr. President, I may make a suggestion that both Governor Sheehan and Senator Brackett have in mind the Senate rule, which is a time-honored rule, in which there is no provision that the Senate on receipt of a report must agree to it before going to the Committee of the Whole, and therefore on receipt of the report, the report is automatically referred to the Committee of the Whole. But in the rules of the Convention, the words, "if agreed to," being in our rules, necessitates the agreement to the report by this Convention. That feature can easily be eliminated by adopting the suggestion of General Wickersham.

Mr. A. E. Smith — I cannot agree with the gentleman, Mr. President. I do not think that the words should be taken out, for this reason: The fact that the Committee making a report recommends that it be sent to the Committee of the Whole, that recommendation becomes a part of their report. Now, the House may see fit at times to disagree with that part of the report, and ask that the subject have immediate consideration, or that it be referred to another committee of the Convention, but if you take out the words, "if the report be agreed to," it must go to the Committee of the Whole and no motion can be made without amending the rules; refer it to another committee, or to ask for its immediate consideration. If you read the language of the rule in connection with the report of the Committee, the words, "if the report be agreed to," have particular reference to that part of the Committee's report that asks that the particular proposition be referred to the Committee of the Whole. I think that we ought not to interfere with that. It will tie us up.

Mr. M. Saxe — I wanted to further amend that by inserting after the word "reported" the words "except for introduction," so as to cover the case of proposals reported by a committee —

the very question which arose the other day when the Committee on Taxation and its chairman had to differ from the distinguished gentleman from Saratoga on the power of the Committee to report a proposal; and if we are going to amend that sentence, I think we can improve it by adding the words "except for introduction" after the word "reported," so that it will read "All Proposed Constitutional Amendments reported except for introduction."

Mr. Sheehan — I suggest that, after the disposition of this particular report, the whole matter now in controversy be referred back to the Committee on Rules and let that Committee take it up.

The President — Under the rules, Mr. Wickersham's motion will go to the Committee on Rules. The question now is on agreeing to the report of the Committee on Legislative Powers. All in favor will say Aye, contrary No. The report is agreed to and it goes into general orders. The Secretary will read the further report.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred the Proposed Amendment introduced by Mr. R. B. Smith, No. 410, Introductory No. 289, entitled "To amend Section 28 of Article III of the Constitution, in relation to the granting or allowing of extra compensation by legislative bodies or auditing boards, bodies or officers," report in favor of the passage of the same without amendment.

The President — The question is upon agreeing to the report.

Mr. Wickersham — Mr. President, as I understand it, that report does not carry with it the recommendation referred to a moment ago in the discussion on my proposed amendment.

The President — In the opinion of the Chair it is not necessary. The Committee reports the Proposed Amendment favorably and recommends its passage and the question is upon agreeing to the report. If the Convention agrees to the report it goes to general orders.

Mr. Wickersham — Under that ruling I withdraw my objection.

The President — The question is upon agreeing to the report. All those in favor of agreeing to the report say Aye, contrary No. The report is agreed to and the Proposed Amendment goes to general orders.

The Secretary — Mr. Barnes: Report from the Committee on Legislative Powers, to which was referred Proposed Amendment by Mr. J. G. Saxe, No. 215, Introductory No. 214, entitled "To amend Section 18, Article III of the Constitution, in relation to limitations of the power of the Legislature to pass private or local bills by prohibiting private claim bills." The Committee reports in favor of the passage of the same without amendment.

The President — The question is upon agreeing to the report. All in favor say Aye, contrary No. The report is agreed to and the Proposed Amendment goes to general orders.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment, introduced by Mr. Austin, No. 376, Introductory No. 78, entitled "To amend Section 15 of Article III of the Constitution, relative to the passage of bills by the Legislature," by striking out the authorization for the passage of bills under emergency messages from the Governor; the Committee reports in favor of the passage of the same without amendment.

The President — The question is on agreeing to the report. All in favor of agreeing to the report say Aye, contrary No. The report is agreed to and the Proposed Amendment goes to general orders.

Mr. Sears — In the absence of the chairman of the Committee on Contingent Expenses, I present for him the following report.

The Secretary — Your Committee on Contingent Expenses reports with reference to the matter of a supply of drinking water for the Convention, that it has received from the Great Bear Spring Water Company a proposition to supply the Convention with sufficient drinking water during the session for \$350 based on 100 days' service (six days in the week), and \$3.50 per day for each additional day beyond 100 days.

Your Committee has also received a similar offer from Hathorn & Company for a supply of drinking water from the Saratoga Soft Sweet Spring.

Considering the fact that the Great Bear Spring Water Company has supplied water to the Senate and Assembly during the last session of the Legislature, is now supplying the departments in the Capitol, and has to date supplied drinking water to this Convention, has a branch house in Albany, where a large reserve amount of drinking water is stored, and is fully equipped to carry out its contract, and considering the fact that the water from the Saratoga spring has never been supplied in large quantities to consumers in Albany, that the management has no facilities for the storage of a reserve supply in Albany, and contemplates bringing the water from Saratoga by trucks, as the demand may require, your Committee favors the giving of the contract to the Great Bear Spring Water Company, and recommends the adoption of the following resolution:

Resolved, That the Secretary be and he is hereby authorized to contract with the Great Bear Spring Water Company for the supply of drinking water for the Convention, including the supply of all necessary coolers for the Convention rooms, and all officers

and Committee rooms, at the rate of \$350 for the first hundred days of the session beginning April 26th (six days in the week), and \$3.50 per day for each additional day.

Mr. Brackett — I offer the following resolution.

The Secretary — By Mr. Brackett: Resolved, That the report of the Committee on Contingent Expenses, as to the water to be supplied to the Convention, be recommitted to the Committee with instructions, first, to cause the supply of water furnished for the use of the Convention to be analyzed by the Department of Health, and to have a written report made as to which water is the purest and the freshest and the freest from bacteria and foreign matter; second, that the Committee report by resolution to the Convention, and that the water which is declared by the State Health Department's analysis to be the purest and freest from bacteria and foreign matter be accepted as the water to be furnished to the Convention.

Mr. Brackett — Mr. President, I address myself to this, the most serious question which will come before the Convention, a question which vitally involves the health of every member of the Convention, especially as we approach the hot season, and I hope that I may be pardoned for taking a few moments of the time of the Convention to review what is claimed in the premises. I seize the opportunity more eagerly from the fact that there is a foolish notion floating around the State — with which some of the members of the Convention have been taken — that the State Reservation at Saratoga Springs was a scheme for the purpose of providing for the then village, now happily grown into a city, of Saratoga Springs — a public park, and that the persons going to that most beautiful resort on the continent go to see the beautiful park that is there and think that it is the result of the State appropriation.

Let me say to the fellow members of this Convention and particularly to the gentleman from Oswego, that the State has not spent one single dollar upon the magnificent park system in the heart of the city of Saratoga except as it acquired for a very insignificant sum the mineral water rights in the park which included and include that best known and perhaps most valuable spring in all the world — Congress Spring.

The State owns that, but not at all any part of the park. The State has, however, acquired about two miles below the city of Saratoga proper, about two miles below the United States Hotel, a park of about 350 acres, in which are situated, I am told, something like 100 mineral springs, any one of which would make a Spa that would make Carlsbad and Weisbaden or any of those foreign summer places and watering places green with

envy at any time. The supply of natural mineral water which is there, the greatest in the world, has been fully restored. The number of the springs is unequalled in any part of the globe. The character of the mineral contents is unique. Its amount is the greatest known anywhere. There is no condition of stomach or kidney or bowels or, when used for bathing, of skin that it does not benefit. That, Mr. President, is what the State has acquired with the utmost economy and almost niggardliness of expenditure, and it is an acquisition which all future time will demonstrate to be of the utmost value to the health and pleasure of the State.

Upon this park there was discovered a flow of fresh water—I mean now water that is not at all charged with any minerals or carbonic acid gas. It is just such water as runs in the brook, so far as mineral or gas are concerned. It is of enormous flow, 150 gallons a minute, and there the State has erected a bottling plant, under the most sanitary conditions, the most rigid measures having been taken to conserve and preserve free from contamination the source of supply. It comes out of the side of a sand bank, which is as pure as could be, and there the State Reservation Commission, of which Mr. George Foster Peabody has been the chairman, and Benjamin W. Tracy and former Senator Frank N. Godfrey, the other two—have established this plant for the purpose of putting up this fresh water.

Now an examination bacterially, or bacteriologically and chemically, has demonstrated several things. One is, that it is the softest water that is upon the market, that is, by that I mean to say, the freest from any kind of mineral ingredient. There is practically nothing. The second is, that there are no bacteria in it. In an examination of water it is found that there is always or usually a certain number of “bugs” in a given amount of water—I mean microscopic bugs, of course. I think that when they get down to 100 bugs per litre, or some specific measure, that they consider it as so insignificant, that they regard it as chemically pure water and as hygienically perfect. An examination of this water by the State chemist, so that there is no possibility of any partiality in favor of this water, showed that there were two bugs in this given amount of water and only two bugs. They were immediately impounded and put under examination and before the magistrate on cross-examination they testified, severally and apart, each one being excluded from the other, that they understood that there was some Great Bear water in the neighborhood and they were searching for their natural habitat. They were allowed to go and travel their own way, provided that they would give bonds that thereafter

there never should be any such in any of the spring water of the Soft Sweet Spring, and that agreement was entered into and therefore I can certify to this body that it is an absolutely pure water.

Now, Mr. President, what on earth will the other servants of the State think if this body of original law-makers shall turn down the State's own enterprise, the State's own water, and say that they will not have it here, when it is offered almost like salvation — free — and, next to salvation, I do not know of anything that is so good for the human system as this water. I therefore suggest — I am entirely willing to meet my friend from Oswego in the bloody arena or out and discuss the question from now until the end of this Convention, but I submit that this resolution which I have offered is one which is absolutely fair. Now if he has the best water let us have it; if he has not, then let us take a supply of water of whoever can qualify as producing the best. Let us have that, because there is nothing anywhere, either of food or drink, that is too good for the members of this Convention.

Mr. Berri — I would like to offer as an amendment that both waters be provided for this Convention. The reason I do that, is this: If, perchance, the water from Saratoga should be chosen, it would be perfectly agreeable to me but it might not be wholly so to all the delegates to this Convention. A few weeks ago a number of the delegates to this Convention had the great pleasure of visiting Saratoga and being guided over the reservation by Senator Brackett, who gave us a very pleasant time indeed. In order that we might know about this water question thoroughly, we visited twenty-seven different springs and at each one of those springs we were handed a glass of the water from the spring.

Mr. Wickersham — Mr. President, I should like to ask how many members of that Committee are present here to-day?

Mr. Berri — It was a very pleasant day, one of the pleasantest that possibly could be, but I remember distinctly that one of the delegates said that if the Saratoga water was provided for this Convention he would not drink it; that is Delegate Unger, sitting facing me.

Now he should not be forced to drink the Saratoga water if he does not wish to. There may be some reason why we should prefer another spring, and it does not seem out of proper order that both kinds or other kinds should be provided. Why not let the people who deal in the product of water for commercial purposes be permitted to furnish here to us and we make our choice of the water we wish to drink. There may be some reasons why some water other than another may not be agreeable for us to

use, and therefore I would like to see more than one kind. It is working very well now; we have two kinds here and we can take our choice. I am entirely neutral and go to one one day and the other the next day. I cannot see much difference in them. I think, however, that it would be very wise in any contract we made to specify the exact spring that the water is to come from, because there might be an error made; for instance, there were twenty-seven different varieties of Saratoga water that I tasted on that day, and we want to be sure that we are getting from which ever source we make our bargain with, in order to be sure that we are getting the exact product that we have decided upon. I would very much like to see both provided.

Mr. Unger — Mr. President, if I may rise to a pint of water, so to speak, I would like to call Delegate Berri's attention to this fact, that as far as I got in the drinking of Saratoga water was Hathorn No. 1, Hathorn No. 2 and Hathorn No. 3, and for that reason I am not in any wise qualified to judge of the merits of the sweet water that Delegate Brackett so eloquently described.

Mr. Cullinan — Gentlemen of the Convention, if it does not please the Democratic party or the Republican party I am sure that this discussion in regard to water must please the Prohibition party and particularly in view of the fact that it is not water either in canals or in reservoirs or dams but for drinking purposes, instead of some other liquid, and particularly in view of the fact that this Convention is willing to pay for its drinking water instead of for any other liquid.

It recalls a little narrative about Sir Walter Scott who wrote that splendid heroic "Marmion," and in which, just as he is about to die at the battle of "Flodden Field" he is waited upon by his lady love and brought to a spring which bubbled forth fresh water which revived him and assuaged his thirst; and, as you remember, it winds up with those remarkable words which we recall from our boyhood days, "Charge, Chester, Charge."

It seems that a frugal Scotchman of Sir Walter's day, observing the large number of visitors to that fatal field for Scotland, Flodden Field, determined that he would have an inn and have a place to entertain man and beast, and after he has constructed it he determined that the next important thing to do was to have a legend which would be known all over the world, and so, thinking that Sir Walter Scott had written a poem in regard to Flodden Field, he called upon Sir Walter and wished him to provide a legend for his inn.

Well, Walter thought for a few moments and he said, "Yes, I have got one. I will take it from Marmion," and there were

those words, "Approach, gentle pilgrim, drink and pray," referring, of course, to the death of Marmion in the neighborhood of the spring. So he sat down at his desk and he wrote those words, "Approach, gentle pilgrim, drink and pray," and he handed it to the hotelkeeper, who looked at it and read it over and said, "Hoot, mon, do you think I am going to keep a kirk?" "Oh," he said, "I will fix that." So he just erased the letter "r" in the last line so that it read, "Approach, gentle pilgrim, drink and pay." So we are here called upon to pay for this spring water from the Saratoga Reservation.

But I would say to my friend, Senator Brackett, that the Great Bear Spring, for which I hold no brief, has an ancestry like the Saratoga water. It is in the beautiful valley of the Oswego where Cooper's Pathfinder on his way from the center of the State to Ontario used to assuage his thirst. It has been for many years before the people of the United States and has a large patronage.

Now I was not aware that the State reservation was created for any other purpose except to provide for the production of mineral waters, and here is the title of the original act. "An act to authorize the selection, location and appropriation of certain lands in the town of Saratoga Springs for a State reservation, and to preserve the natural mineral springs therein located and making an appropriation therefor."

I hope that when this — I have no objection to the resolution that has been introduced by my friend going to the Committee, but, at the same time, I would suggest that he submit a brief on that proposition as to whether the State reservation has any right to deal with the matter of furnishing spring water or any water outside of mineral water.

Mr. Byrne — We have listened patiently to these carefully prepared addresses on the subject of water. I have no doubt that the people of the State of New York are greatly worried to-day over what kind of water we are going to select. Senator Brackett says it is a serious question. The most serious thing about it, to my mind, is to get rid of it very quickly before this Convention and not lengthen out this discussion. We have been brought into the bloody arena, we have gone to Flodden Field, we have traveled with Marmion, and the Lord knows where we will go next if we keep up this discussion. It seems to me that the Committee on Contingent Expenses should be empowered to contract for some kind of water. I do not think it makes much difference to the people here; some of them do not believe in it anyway. It is merely to put out fires with and wash in. But, outside of that, we should dispose of this question absolutely,

and I move, sir, that the Committee on Contingent Expenses be empowered to make a contract for some suitable water — this water if you will — at a figure not to exceed the figure contained in the report to-day.

Mr. Buxbaum — Mr. President, a point of order.

The President — The gentleman will state his point of order.

Mr. Buxbaum — There is a resolution, or amendment, before the House, and there is a report before the House.

The President — The Chair does not understand that Mr. Byrne formulated any amendment. The question is upon Mr. Brackett's motion to recommit, which would take precedence of the motion by Mr. Byrne, or, rather, of the suggestion.

Mr. Wickersham — I hope the motion to recommit the report will not prevail. It is obvious that the Committee has given this subject a great deal of consideration. We are now in the middle of June, and it seems to me that we have given, or the Convention has given, as much time to this problem as it demands, and I therefore hope the motion to recommit will not prevail.

Mr. Barnes — I do not desire to detain the Convention in this matter any longer, but I cannot let this matter go entirely without the statement that there are about 100,000 people living in this city who get their water from the Albany water system. It is not necessary for this Convention to contract with the city of Albany for its drinking water, and it seems to me that it would be a reflection upon that system if we should adopt any report of this character, or make any contract whatsoever, but that we should do as the rest of the people do in Albany, drink the filtered water, which everyone in Albany drinks.

I am not making any motion, but I wish, however, to make that part of the Record, and to vote against the resolution.

The President — The question is on the motion to recommit, with instructions.

Mr. Brackett — In closing the remarks on this subject, so far as I am concerned, I want to say that I think we should have the best there is, and I think we ought to favor the State. I wish to say that I do not think that anybody is a criminal if he does not vote for this proposition, but it does seem to me to be a very proper thing that the State's water should be used here.

The only possible objection to it, that I can see, and which has not been mentioned — and I waited to hear whether it would be mentioned or not — is that some of the older members, if they were to drink this water for any length of time, would find themselves getting younger, and younger, and younger, and

finally might have to discontinue further use of it, because they might have cholera infantum, or some other infantile disease.

The President — All in favor of the motion to recommit to the Committee on Contingent Expenses, with instructions, will say Aye, contrary No. The Noes appear to have it.

Mr. Brackett — I ask for a roll call, if there is any doubt about it.

Mr. A. E. Smith — A rising vote, Mr. President.

The President — All in favor of the motion to recommit, with instructions, will rise and remain standing until counted. The gentlemen will be seated. All opposed to the motion to recommit will rise and remain standing until counted. The gentlemen will be seated. The Secretary reports sixty-one for the motion to recommit, and sixty-two against.

Mr. Wickersham — I move the adoption of the resolution contained in the report.

Mr. Brackett — I have a telegram from Mr. Quigg, Mr. President, asking me to vote for him on any and all questions. I move — of course, it is ridiculous, such a little matter, and yet I think we ought to have a roll call. Here is Brother Brenner, who just came in, and I ask that he be permitted to be counted one way or the other.

Mr. J. L. O'Brian — Mr. President, the point of order is raised that the vote has been counted, and the result announced, and I call for the question on the original resolution.

The President — The question is upon the resolution reported by the Committee on Contingent Expenses; all in favor of the motion will say Aye, contrary No. The Ayes appear to have it. The Ayes have it, and the resolution is adopted.

The President — Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

Mr. Brackett — Mr. President, under special orders, I suspect, comes up the matter that was put over until this time; the resolution of the Committee on Legislative Organization, and also its adverse report, upon certain bills.

The President — The Chair does not consider that those have been made a special order, but it is unimportant, and they can come up under the head of reports of committees.

Mr. Brackett — The resolution provided that it should be after the regular order of business.

The President — Very well, they will come up now.

Mr. Brackett — I ask that the Clerk, if it is in his possession, read the two resolutions reported by the Committee on Legislative Organization.

The President — The Clerk will read the resolutions.

The Secretary — Mr. Brackett, from the Committee on the Legislature, Its Organization, Etc., submitted the following report: "The Committee on the Legislature, Its Organization, and the Number, Apportionment, Election, Tenure of Office, and Compensation of Its Members, to whom was referred the resolution of Mr. Quigg, which reads as follows:

"Resolved, First, that the Legislature shall be composed, as at present, of two Houses;

"Resolved, Second, that it is undesirable that the membership of either house should be increased;

"Resolved, Third, that the holding of annual sessions is expedient;" makes this its report on such resolution, as follows:

"That said resolution be amended so as to read as follows:

"Resolved, That the Legislature shall be composed of a Senate and Assembly.

"Resolved, Further, that the members of the Senate be elected from Senate districts, and that the members of the Assembly be elected from Assembly districts."

"In recording and recommending the adoption of this resolution the Committee begs leave to submit the following consideration —"

Mr. Wickersham — Mr. President, I move that the Convention now adjourn, until 2:30. I think the discussion of this matter is going to take some little time, and it has been suggested to me that the facilities for getting luncheon are rather limited and that it would be agreeable to many members if further discussion were deferred until half past 2. I have no personal wish, and make that suggestion at the instance of several of the delegates.

Mr. Low — Mr. President, that will interfere very seriously with Committee hearings.

The President — It is moved that the Convention take a recess until 2:30 this afternoon. Are you ready for the question?

The President — All in favor of the motion say Aye, contrary No. The Ayes appear to have it. The Ayes have it, and the Convention stands at recess until half-past 2 this afternoon.

Whereupon, at 1:10 p. m., the Convention took a recess until 2:30 p. m., of this day.

AFTERNOON SESSION — 2:30 P. M.

The President — The Convention will please be in order.

Mr. J. L. O'Brian — Mr. President, under Rule 55, I ask that the question before the House be divided and the two resolutions reported by the Committee be considered separately.

The President — The delegates are entitled to the questions separately, on the resolutions.

Mr. J. L. O'Brian — Mr. President, in view of the statement just made to me by the chairman of the Judiciary Committee, I desire to withdraw my motion, my request, for the present.

The President — The question, then, is upon the resolutions, reported by the Committee on Legislative Organization. Is the Convention ready for the question?

Mr. Aiken — Mr. President, I move to substitute the resolution of the minority for the resolution of the majority.

The President — Mr. Aiken moves to substitute the resolution offered by the minority in lieu of the resolution reported by the majority of the Committee.

Mr. Brackett — I understand that the leader of the Convention has a motion which he will make presently. I ask to make a very brief general statement of the situation, in order that if the matter is not considered now, the members of the Convention may have in mind the precise thought and motive that have impelled the authors of the report on this resolution and an adverse report on certain bills or Proposed Amendments that were submitted to the Committee.

If there is objection made on behalf of any member of the Convention to the consideration of the resolution on the ground that a Proposed Amendment has not been reported, then I am entirely willing to meet, and we have met the situation by reporting adversely the various propositions before the Committee that look to having but one House, and that look to having the Senators elected at large. The Committee is entirely of the mind, with the exception of two dissenting to the report, that it is wise to continue two Houses in the Legislature.

There is no question that is or that possibly can be involved in that resolution, the first one reported by the Committee, except and only the one as to whether there shall be one or two Houses.

The second resolution looks to the proposition that instead of having any Senators elected at large from the whole State, as, for example, the proposition submitted by Mr. Schurman, that the Senate shall consist of twenty-four members, six of whom shall be elected at large, this second resolution reports adversely on

that, and reports in favor of continuing the election of Senators by districts, and it involves nothing else.

I hope those timid souls who think that they find underneath this second resolution anything other than what its language precisely imports will not take counsel of their fears and will believe me when I say that there is absolutely nothing relating to apportionment or reapportionment or legislative apportionment in or under the resolution.

Now, I appreciate what I am told is the desire of the President of the Convention, and of my leader, to avoid partisan questions and partisan discussions in this body and I hope I will be willing to go as far as any between now and the time the Convention adjourns as to save anything of that kind. I am taking purely as my position that, "If meat offend my brother, I eat no meat while the world last." And there is absolutely nothing in this resolution relating to the question of apportionment or reapportionment. It is simply what it purports to be, a resolution that it is the sense of the Committee that the members of the Senate should be elected from Senatorial districts and that the members of the House should be elected from Assembly districts.

Now I am entirely willing here and now to avow myself an humble believer in the proposition that, whatever the apportionment is, whether it is a reapportionment or a continuation of the present apportionment, whether we lessen the number of Senators, keep them as they are or increase them, the apportionment should finally find its way into the body of the Constitution and should not be cast into the Legislature. I have seen an apportionment in the Legislature and I hope never to see another. If you want a fair illustration of what the question of an apportionment cast into a legislative body is, you go down to the Zoo where the wildest tigers are kept and wait until they are good and hungry and then drop a piece of meat and see what will happen.

That will be just a little suspicion of what happens in the Legislature on the question of reapportionment. The question of apportionment should no more be left to the Legislature than should the question of what the powers of the Legislature are. They ought no more to be permitted to define the districts which the several members of the House shall represent than they ought to be permitted to define their own powers under the Constitution.

Now, there is no possible occasion, and I do not believe there is any possibility of any partisan division in this body on the question of apportionment.

There is bound to come, as is manifest — if you just reflect a single minute, there is bound to come a division in this body on

this question, and it is bound to come whether there is an apportionment in the Constitution or not; and the question on which that division must come is just this: As to whether there shall be a limitation as to the number of legislators that the city of New York shall have; as to whether the present limitation shall continue; whether there shall be new and different limitations; or whether the city of New York shall have on the same number of population the same representation, the same number of legislators that are had in the rest of the State.

You cannot, Mr. President, by any soft language turn away the wrath of some of my brethren on that proposition. They are going to fight like wild cats if you attempt to limit the city of New York and fail to give them the same proportional number of members of the Legislature that the rest of the State has.

If the keeping of the reapportionment, or the apportionment out of the Constitution would prevent that division, then there would be ground for saying that it was in the interest of harmony and in the interest of the avoidance of partisan discussion and partisan decision — and that it would be well not to have the subject come up.

But you cannot keep that question out by keeping the apportionment out of the Constitution. If you think you can, you don't know my Brother Wagner and my Brother Smith.

That question having been settled, as it must be settled, whichever way it is settled — and I assume that in a general way those in the city of New York will vote that the city should have the same representation per thousand of population as does the rest of the State, and I assume that, in a general way, that being absolutely so, that those living in the country will voice as their belief that it is better for the interests of the State and for all the people of the State, including the city of New York, that the present restriction, or some similar restriction, should prevail in the new Constitution, so that no one locality, however big, should have absolute sway over or control of the legislation of the State, but that question having been settled, having been met and settled, as it must be met and settled no matter what the apportionment is, then I undertake to say that thereafter you could lock Brother Wagner and Brother Brenner up in a room together, and they will come out with a fair and decent apportionment.

It is only a question then of dividers, it is only a question of applying dividers to the map in order to say which is most contiguous, and then it becomes a question of mathematics in figuring out what is the nearest to an equal representation.

Now, I have told, Mr. President, and I ask the leave of my leader to tell, at this time, in order that the members of the Convention might give thought to the matter — I have told all that

is in my mind and heart on the subject. I have no wish, by any question of apportionment or reapportionment or adjustment of any kind, to raise any partisan question here. It will not arise. I have talked with a sufficient number of men in this Convention of the opposite political faith so that I know that once passed, this cleavage, which must come up in this Convention, no matter how you try to avoid it, between what the interest is which the city of New York has and the interest which the country has in the question which I have mentioned — that that once passed everything else will sink into insignificance and the gentleness of the sucking dove will be wildness compared with what the Committee will have when it comes to making an apportionment.

Mr. D. Nicoll — This resolution provides that the Legislature shall be composed of a Senate and an Assembly and that the members of the Senate shall be elected from the Senate districts and the members of the Assembly shall be elected from Assembly districts.

That, of course, is a mere statement of the Constitution as it stands to-day and as it has stood for seventy years, for ever since 1846 we have been electing Senators from Senate districts and Assemblymen from Assembly districts.

Therefore, notwithstanding the assurances of the learned gentleman from Saratoga, I can hardly believe that that is the only purpose of this resolution.

Why should the Committee on Legislative Powers report a resolution reaffirming the Constitution as it is to-day and as it has stood for seventy years.

When you turn to the report of the Committee you will find, I think, the exact purpose of this resolution. It is necessary to pass this resolution according to the report of the Committee in order that the subsequent work of the Committee with respect to the number of Senators and Assemblymen and the districts into which the State should be divided for the purpose of electing Senators and Assemblymen shall not go for naught: "Inasmuch as such work will be enormous, it is the practically unanimous consensus of the Committee that the points embodied in the resolution so reported should be first definitely settled by action of the Convention and it, therefore, makes this report of Mr. Quigg's resolution and requests that action may be taken thereon by the Convention."

So that this resolution instead of reading that the Senators shall be elected by Senate districts and the Assemblymen by Assembly districts should read: "Resolved, That the Convention now instruct the Committee on Legislative Powers to proceed to make a new apportionment."

And that brings us face to face with one of the most serious questions in this Convention, and that is whether or not the new apportionment shall be left to the Legislature or whether it shall be made by the Convention itself.

I was a member, as some of you know, of the Convention of 1894 where we were confronted with this very proposition. At that time Republicans were greatly offended because of the legislative apportionment of 1892 which most of them considered to be unfair and they, therefore, determined to take the power of making an apportionment out of the hands of the Legislature and put the apportionment in the Constitution. But let me tell you with what result. We went through sixty days or more of the Convention of 1894 in a most peaceful and harmonious way. The Republicans and Democrats had no differences on all the great and important proposals relating to the improvement of the State government which were under discussion, but the moment the apportionment — the political question — was thrown into the Convention we divided into two camps and peace and harmony from that time were at an end.

That is a situation which if I possibly can I wish to avoid in this Convention. In the character of the Convention and in the open-mindedness of its members I see great opportunities for doing something for the benefit of the State and, therefore, I think that we ought to devolve the duty of making the new apportionment upon the Legislature under proper rules. We ought not to imperil the work of this Convention by dividing upon party lines. I am perfectly aware, of course, that the majority of this Convention will do what they think right. If they think they ought to put an apportionment in the Constitution they will do it. They have the power to do it and they will do it. They have the votes to do it and we must abide by the result, but I rise now to protest against its being done now and against its being done at all until you have had an ample opportunity to consider the consequences of taking so dangerous a step.

Mr. Cullinan — In behalf of the Committee on Suffrage, I desire to put the Convention in possession of the following facts: On the 7th day of May, Delegate Low introduced a Proposed Constitutional Amendment in relation to proportional representation and preferential voting — an amendment which, if approved by this Convention, of course, is hostile to the resolutions that are now under debate. We have had several, at least two, hearings, and one, a very extensive one, where the speakers were Professor Jenks of New York University; Professor Hoag; Mr. Murphy, Tenement-House Commissioner, of New York; Mr. Elder, and others, and the Committee has as yet taken no action upon this amendment.

I think the House ought to know, or the Convention ought to know these facts before taking definite action with reference to the resolution emanating from the Legislative Powers Committee. At least I believe it is the sense of the Committee on Suffrage, that those gentlemen who believe in proportionate representation, whether it is to be specifically advocated or not by this Convention, should be treated with the courtesy which ought to be extended to anybody coming to the Convention with reference to a proposition in which they sincerely believe.

Mr. Stimson — Mr. President, there is one further objection, as it seems to me, to the consideration of the question presented by this resolution in the form in which it has been presented, that is by a resolution in general terms instead of by a proposed amendment.

I conceive that it is the duty of the Committees of this Convention to take up such questions, to give them the best consideration that they can give them, and not to report them to this Convention until they have arrived at a conclusion which is fit to be proposed in their opinion in the shape of an amendment. I do not think it is the duty of a Committee to throw its burdens upon the Convention, particularly at this stage of the Convention's session, and seek to have an important question decided as an academic question.

Take this very question which is before this Committee and on which they now ask to obtain the opinion of this House, which is a question which depends very materially upon its connection with other parts of the Constitution, and a consideration of its relation to the other machinery of the State government might very well affect the opinions of each and every one of us as to the merits of the proposition which they propose.

Now, I think it would be a very bad precedent at this stage of the Convention to have it understood that a Committee can, when it desires, throw upon the Convention the burden of deciding such a question without all of the interrelations that it is peculiarly the duty of a Committee to investigate and determine. Why, Mr. President, there is pending now before the Committee on the State Finances, Revenues and Expenditures, of which I have the honor to be Chairman, various questions such as, for instance, the proposition to change the financial system of this State's indebtedness from sinking fund bonds into serial bonds. I concede that it would not be a performance of the duty of our Committee if we should come and seek to throw that question upon the Convention without having done our best to present it in a way which will embody the most thorough investigation and most careful adjustment of the relations between that question and the other parts of the State government that our Committee could arrive at.

Now, the Senator from Saratoga suggested that it might be objected to the presentation of the question in this form. I for one certainly would object to it in the present form. I think it is very difficult if we get into the habit of answering propositions of that kind produced before the Convention in that way, to bring to them the care and consideration that it is the purpose of a legislative body, a deliberative assembly, to bring to it and I sincerely hope that this question will not be proposed in that way and at this time, quite apart from the other arguments that may be supposed to underlie it and to which Mr. Nicoll has called our attention.

Mr. Wickersham — Mr. President, I move that further consideration of this question be postponed until Thursday, the 24th instant.

The President — The question is upon the postponement of the debate.

The President — Those in favor of the motion to postpone debate will say Aye, contrary No. The Ayes have it. The motion is agreed to.

The President — Will the Clerk make his announcements for the day?

The Magna Charta exercises will commence at 8 o'clock sharp. Delegates are respectfully requested to be in their seats before that time. Friends of delegates accompanying them to the Assembly Chamber will have seats provided for them around the sides and in the rear of the chamber. After 8 o'clock the public will be seated as far as the accommodations will permit. The galleries will be open to the public all the evening.

Mr. Wickersham — Mr. President, I now move we adjourn.

The President — All in favor of the motion to adjourn will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 3:30 p. m., the Convention adjourned to meet at 10 o'clock a. m., Wednesday, June 16, 1915.

WEDNESDAY, JUNE 16, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. H. Dykhuizen.

The Rev. Mr. H. Dykhuizen — Almighty God and Father of us All, we humbly come before Thee at this moment to ask Thy Divine guidance and wisdom for all the tasks which are before us. We do thank Thee for this beautiful day after these blessed showers which we have had the day past. We thank Thee for the many tokens of love and kindness which Thou hast shown unto us, and as all nature rejoiceth, grant that indeed our hearts may be attuned to sing Thy praise on this beautiful morning. We pray Thee, Lord, wilt Thou grant wisdom unto those in session to-day. Wilt Thou grant that they may feel and realize their responsibility. Coming unto Thee, we acknowledge Thee as the great ruler of the universe, and as such of our country and of the Empire State, the interests of which are represented in this assembly. Lord, our God, may each and every member of the Convention be guided by the spirit of our God, and go forward with an unselfish motive to work for the welfare of this, our Empire State. Bless the President of the Convention and every member, and bless the committees in their work, and when all the tasks are done, may we find a unity of purpose and that we can say, "Well done, ye good and faithful servants." Also for our State, we ask it in Thy name, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal is approved as printed.

Presentation of memorials.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Parsons — I ask that copies of the following Constitutional Amendments be sent to the Committee on Industrial Relations for its information: Nos. 172, 86; 671, Introductory No. 655; 558, Introductory No. 543; that copies be sent to the Committee on Industrial Relations for its information.

The President — Without objection that order will be made. Mr. Tanner.

Mr. Tanner — Mr. President, Mr. Wadsworth, the chairman of the Committee on Charities, has asked that the Committee on the Governor and Other State Officers be discharged from further consideration of amendments, Introductory Nos. 647 and 593. Both of these amendments relate to the formation of a State Board

of Charities and similar amendments have already been sent to the Committee on Charities. I think his request is a proper one and I move that the Committee on the Governor and Other State Officers be discharged but that a copy of the amendment be sent to the former Committee, that is, the Committee on the Governor and Other State Officers, for their information and opinion.

The President — Is there objection to the order which is proposed? The Chair hears none and the order is made.

Mr. Tanner — Mr. President, I also ask that copies of Proposed Amendments, Introductory Nos. 194, 341 and 460, be sent to the Committee on the Governor and Other State Officers for their information and opinion.

The President — Without objection that order will be made.

Mr. Brackett — I don't know; I will submit to the suggestion of the Chair; I have an invitation; I don't know whether it would come under the order of memorials or not.

I will take one moment, with the permission of the Chair, to extend to the members of this Convention, by direction of the committee of the citizens of the new city of Saratoga Springs, a most cordial invitation that the members of the Convention shall attend on Saturday, June 26th, a week from next Saturday, in the forenoon at 10 o'clock, the dedication of the statue prepared by a distinguished artist and to form a part of the Spencer Trask Memorial in the city of Saratoga.

This memorial is to Mr. Trask, whom many of you knew personally and who, you will recall, was the first president of the Saratoga Springs Reservation Commission, and who did tremendous work in the restoration of the springs. The statue is in commemoration of the restoration of the springs and is The Spirit of Life.

It is hoped that the complete membership of the Convention can attend and if we can ascertain the number who will come, a special car will be provided on some suitable train, and those who prefer to go by automobile will find, of course, proper accommodations and a good road all the way there.

The invitation is not a formal one, but it is a most hearty and earnest one on behalf of the citizens of Saratoga Springs. If there is some way that I can secure a register of those who will indicate a wish, or an intention to come, I will be very glad. If it can be done with the Secretary of the Convention, or, if not, if any one who finds that he can come will leave his name with the clerk of the Committee on Legislative Organization, it will facilitate the work of the committee on entertainment, and I will be very much pleased.

Mr. Wickersham — I notice that there is present on the rostrum

with the President of this Convention the Ex-Chief Judge of the Court of Appeals, Judge Andrews, and in order to signalize our appreciation of his presence, I move that the Convention do rise to greet Judge Andrews.

The President — Without objection that course will be followed.

Mr. Bannister — I ask unanimous consent to offer three Proposed Amendments. They are from the Advisory Council of Real Estate Interests of New York and the Tenement-House Committees of Brooklyn and New York. I would like to have unanimous consent to offer these.

The President — Mr. Bannister asks unanimous consent to introduce three Proposed Amendments to the Constitution. Is there objection? The Chair hears none and the amendments will be received.

Mr. Barnes — Mr. President, I do not object to the introduction of these amendments but I would like to give notice that after this week I shall make objection to the introduction of any amendments to the Constitution.

The Secretary — By Mr. Bannister: A Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to legislation to limit the height and dimensions of buildings in cities, towns and villages.

The President — Referred to the Committee on Cities with copy to the Committee on Legislative Powers.

Mr. Low — Mr. President, does that go to the Committee on Legislative Powers? Ought that not to go to the Cities Committee?

The President — It was referred to the Cities Committee with a copy to the Committee on Legislative Powers.

The Secretary — By Mr. Bannister: Proposed Amendment to the Constitution.

Second reading — To amend Article III of the Constitution, in relation to legislation to limit the use and occupancy of buildings in cities, towns and villages.

The President — Same reference.

The Secretary — By Mr. Bannister: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, in relation to the acquisition and disposal of property dangerous to public health and safety.

The President — The Chair is in some doubt whether this does not cover the same subject which is before the Committee on Bill of Rights. Otherwise the same reference would be made.

Mr. Blauvelt—On behalf of my associate I ask unanimous consent to propose an amendment. I understand it originates with the New York State Medical Society.

The President—That will be deferred for a moment until the reference of this amendment is made. The reference will be to the Committee on Cities with a copy to the Committee on Bill of Rights.

Mr. Blauvelt asks unanimous consent to submit a Proposed Amendment to the Constitution. Is there objection. The Chair hears none and the amendment will be received.

The Secretary—By Mr. Leitner, by request: Proposed Amendment to the Constitution.

Second reading—To amend Article III of the Constitution, in relation to forbidding legislation prohibiting physicians from receiving pay for services in public institutions.

The President—The Committee on Legislative Powers.

Reports of standing committees? Are there any reports of standing committees?

Reports of select committees.

Mr. Sears—From the Committee on Contingent Expenses, in the absence of the chairman, I offer the following report, and move the adoption of the resolution therein contained.

The Secretary—Mr. Sears, from the Committee on Contingent Expenses, to which was referred the resolution relative to the printing of the memorial presented by the Society of Tammany, introduced by Mr. T. F. Smith, report in favor of the adoption of the following resolution: Resolved, That the memorial of the Society of Tammany or Columbian Order be printed as a document of the Convention.

The President—Are you ready for the question upon the resolution?

Mr. Wickersham—Mr. President, I move that that be referred to the Committee on Contingent Expenses.

The President—It is a report of the Committee on Contingent Expenses, and cannot be referred. Are you ready for the question upon the resolution reported by the Committee? All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Mr. J. S. Phillips—I do not know whether I am in order or not, but I want to make a motion or ask unanimous consent to make a motion. I move that the communication from the Lieutenant-Governor and Acting Governor, dated June 8, 1915, which was a reply to the resolution of inquiry adopted by the Convention

on May 20th, relating to persons confined in State prisons, and so forth, be printed as a document, and distributed to the delegates.

Mr. Wickersham — Mr. President, I think that motion should properly go to the Committee on Contingent Expenses.

The President — That motion, under the rules, will go to the Committee on Contingent Expenses, or the Committee on Printing. The Chair thinks it goes to the Committee on Contingent Expenses.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

Mr. Wickersham — I understand that we do not go into general orders except on motion, and no motion has been made to take up the general orders. The regular days, according to Rule 22, are Tuesday and Thursday. I move that the further calling of general orders be discontinued for the present.

The President — The Chair's understanding of the rule is that the calendar of general orders is called, and that as the orders are called if they are not moved, they are passed over. If moved, then when three general orders have been moved, the Convention goes into the Committee of the Whole. Now, of course, it is in the power of the Convention to change that proceeding if they see fit. The Clerk has called the first general order.

Mr. Austin — I move that the Convention lay it aside.

The President — That will be laid aside. Perhaps as the call continues we can determine what there is to do. Mr. Wickersham moves that the calling of the calendar be discontinued —

The President — Are you ready for the question of discontinuing the call of the calendar for the day? All in favor of the motion will say Aye, contrary No. The motion is agreed to. Is there any further business before the Convention? The Secretary will make announcements.

Mr. Wickersham — I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:30 a. m., the Convention adjourned to meet Thursday, June 17, 1915, at 10 a. m.

THURSDAY, JUNE 17, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, who hast given unto men diversities of gifts that they might serve the varied interests of their generation and contribute to the true progress of mankind, we ask that Thou wilt bless and prosper us as we set ourselves to deliberate upon the problems, and to the accomplishment of the tasks appointed unto us. We ask that Thou wilt help us to labor diligently and faithfully, not with eye service as man-pleasers, but in singleness of heart, remembering that we can accomplish nothing worthy but with Thy help and that in Thy fear is the beginning of wisdom. Direct, we beseech Thee, all our work as it is founded in truth and wrought in righteousness, that it may contribute to the purest and highest welfare of our fellow citizens. In Thy great mercy, pour upon us the most excellent gift of charity and while we are zealous in promoting the things which seem to us to be right, grant that we may have a due consideration for the rights, the claims and the convictions of others. And so may all our work meet with the commendation of our God. For Thy Name's sake, Amen.

The President — Are there any amendments to the Journal as printed and distributed? If there are no amendments the Journal will stand approved as printed.

Memorials and petitions.

The Chair lays before the Convention a communication from the New York State Tax and Transportation Reform Association, which will be referred to the Committee on Canals; also from the common council of Johnstown, which will be referred to the Committee on Suffrage; also from the Voters' League of New York, referred to the Committee on Suffrage; from the Union League Club of New York, referred to the Committee on the Governor and Other State Officers.

Mr. Bunce — Mr. President, I heard you say something about the city of Johnstown and I would like to know what they want. I would ask that the Clerk read the communication.

The Secretary — Hon. Elihu Root, Chairman, Albany, N. Y.: Enclosed find certified copy of resolution as adopted by the common council of the city of Johnstown, N. Y., opposing any amendment to the Constitution which provides for the abolishment of voting machines.

The President — The Chair also hands down a communication from the Game Bird Society of Indiana, which will be referred to

the Committee on Conservation of Natural Resources; also a communication from the Religious Society of Friends, meeting at Glens Falls, which will be referred to the Committee on Bill of Rights, with a copy to the Committee on Military Affairs.

Mr. Latson — Mr. President, a similar memorial has already been referred to this Committee and there are one or two amendments in this regard to which I want to draw the attention of the Chair at the proper time.

The President — The reference will be to the Committee on Military Affairs with a copy to the Committee on Bill of Rights. Are there any further petitions or memorials?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Latson — Mr. President, I desire to call attention to several Proposed Amendments that have been referred to various committees, each of which contains a provision that brings it within the work of the Committee on Military Affairs: Proposed Amendment No. 85 provides for a secretary of defense and was referred to the Committee on the Governor and Other State Officers. I request that a copy be sent to the Committee on Military Affairs for their information and opinion.

The President — Without objection that order will be made.

Mr. Latson — In Proposed Amendment No. 86 there is a provision for a bureau of defense to have supervision over military and naval forces of the State, and I make a similar request concerning that.

The President — Without objection the same order will be made.

Mr. Latson — In Proposed Amendment No. 263 there is a provision giving recognition, civil service recognition, to those honorably discharged from the militia. I ask that that be referred to our Committee for information.

The President — Without objection the same order will be made.

Mr. Latson — And I make the same request, Mr. President, for No. 427, which has to do with the civil service.

The President — Without objection the same order.

Mr. Latson — Also, Mr. President, No. 472, which provides, among other things, for the appointment of major-generals and removal of commissioned officers.

The President — Without objection the same order.

Mr. Latson — And I make the same request with reference to No. 540, which provides for eleven administrative departments, one of which is to include the State militia.

The President — Without objection the same order.

Mr. Latson — Now, Mr. President, I direct attention to amendments Nos. 440 and 529. Those amendments have to do with the suggestion that those having or holding religious beliefs, not in harmony with the theory of war, may be excused from military service.

The first of those amendments was introduced, I think, on June 8th, and as I read the Record, the Chair originally referred it to the Committee on Military Affairs, but it seemed to Mr. Marshall, chairman of the Committee on Bill of Rights, that a prior amendment of the same general nature had been referred to his Committee, and the reference was then changed.

A very careful examination of the Record fails to disclose the amendment to which the chairman of the Bill of Rights Committee referred, and that amendment, together with the one subsequently introduced, No. 529, referring to the same general subject, seems to me to be properly within the domain of the Committee on the Militia and Military Affairs.

I fully appreciate that we are dealing here with the liberty of conscience, or religious liberty, in a certain sense, and yet, after all, the present Constitution provides for no such exemption, and these propositions involve a grant of liberty and prerogative, rather than involving anything in the nature of an invasion of the right or privilege that now exists.

Taken in connection with other amendments that are before this Committee, they become exceedingly important for the general consideration of the subject, and I suggest, unless there be objection, that these amendments be referred direct to the Military Committee.

Mr. Marshall — Mr. President, I wish to inform Mr. Latson of what I could not inform him a few moments ago, that the measure to which I had reference was Introductory No. 173, introduced by Mr. Slevin, a proposition to amend Section 3 of Article I of the Constitution, which provided that no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; the general subject of religious belief being the idea which I had in mind.

Now, these Proposed Amendments, Nos. 440 and 529, likewise relate to liberty of conscience, and actually belong under the head of Article I, Section 3, and are part of the Bill of Rights, but I am not insistent upon the question of primary jurisdiction over these matters. If Mr. Latson is desirous of considering Nos. 440 and 529, I do not object, but I consider that they are of such importance as a part of the Bill of Rights, that there should be no action taken by either committee on the subject without conference, and without, perhaps, having a joint hearing.

Mr. Latson — Mr. President, that ought to be and will be observed, but still the consideration of any amendments, involving the militia, both organized and unorganized, should, it seems to me, be primarily before this Committee, but, of course, consultation will be had with the Committee on Bill of Rights with reference to their final disposition.

The President — The reference of the Proposed Amendments Nos. 440 and 529, will be changed to the Committee on Military Affairs with a copy to the Committee on Bill of Rights.

Mr. M. J. O'Brien — I ask unanimous consent to introduce a Proposed Amendment.

The President — Mr. O'Brien asks unanimous consent to the introduction of a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. M. J. O'Brien: Proposed Amendment to the Constitution.

Second reading — To amend Article III, Section 4, of the Constitution, in relation to enumerations and reapportionments.

The President — Committee on Legislative Organization.

Mr. Wickersham — I present the following resolution and move that it be referred to the Committee on Library and Information.

The Secretary — By Mr. Wickersham: Resolved, That the clerks of the Appellate Divisions of the Supreme Court in the Second, Third and Fourth Departments, respectively, be and they are hereby requested to furnish this Convention with the following information:

First. The number of appeals from judgments or final orders disposed of in their respective courts during each of the five years last past, specifying the number of affirmances and modifications of judgments or final orders in special proceedings, and the number of reversals;

Second. Specifying the number of such cases involving questions of constitutional law, the number involving the interpretation of general statutes of the United States and of this State, the number of cases involving questions of criminal law, the number of cases involving the interpretation of municipal charters, the number of cases involving the interpretation of wills, the number of cases arising out of contracts, and the number of cases arising out of actions on tort; also the total number of returns filed in said courts, respectively, during each of said years, and the total number of cases disposed of; also the total number of cases in which notices of appeal to the Court of Appeals from the judgment or final order of said court shall have been filed.

The President — The Committee on Library and Information.

Mr. Wickersham — Mr. President, I present the following resolution, and ask immediate consent for its consideration.

The Secretary — By Mr. Wickersham: Resolved, That this Convention desires to express its appreciation of the kind invitation of the city of Saratoga Springs to attend the ceremonies incident to the unveiling of the Trask Memorial on the morning of Saturday, June 26th, and that the members of the Convention who may find it possible to personally accept the invitation so courteously extended are requested to furnish their names to the Secretary of this Convention on or before the 25th instant, and the Secretary is instructed to transmit a copy of this resolution together with the names of those of the delegates so furnished.

Mr. Wickersham — Mr. President, when the invitation of the city of Saratoga Springs was conveyed to the Convention yesterday, consideration of it was interrupted by the entrance of Ex-Chief Judge Andrews, and the recognition of that fact. I think that more attention should be given to that very gracious invitation than was accorded yesterday, and I therefore ask consent for the immediate consideration of this resolution.

The President — Is there objection to present consideration of the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Stimson — Mr. President, I desire to move that the Committee on State Finances be discharged from its consideration of Amendment No. 467, introduced by Mr. Baldwin, and Amendment No. 482, introduced by Mr. R. B. Smith, and that those two amendments be transferred, as to the primary jurisdiction thereof, to the Committee on Cities, the Committee on State Finances merely retaining a copy and the privilege of expressing its opinion. Both of these amendments relate to the issuance of securities by the units of the State, the municipalities, and I have conferred with the chairman of the Cities Committee, and this is done with his approval and his consent.

The President — Is there objection to the order asking for the change of reference of these two amendments? The Chair hears none and the order is made accordingly.

Mr. Marshall — Mr. President, referring to Proposed Amendments, Introductory Nos. 546 and 549, I ask that copies of these measures be sent to the Committee on Bill of Rights. They have already been under consideration by that Committee in conjunction with the Committee on Conservation.

The President — Without objection that order will be made.

Mr. M. Saxe — I offer a resolution and ask unanimous consent to introduce a proposal.

The President — The Secretary will read the resolution.

The Secretary — By Mr. M. Saxe: Whereas, Numerous requests from delegates have come to the Committee on the Holding of Exercises to Commemorate the 700th Anniversary of Magna Charta, for the printing and distribution of copies of the addresses delivered before the Constitutional Convention on Tuesday evening, June 15th, and,

Whereas, The addresses delivered on that occasion were so instructive and inspiring,

Resolved, That the proceedings and speeches, together with a copy of the "Magna Charta" engraving presented by Hon. Morgan J. O'Brien to the State Department of Education, and which was on view in the Assembly Chamber during the said exercises, be printed as a document and be made a part of the records of this Convention, and that 100,000 extra copies of that document be printed for the delegates and public distribution; further

Resolved, That the same be published under the supervision of the Committee on the Holding of Exercises to Commemorate the 700th Anniversary of Magna Charta.

The President — Is there objection to the present consideration of the resolution?

Mr. Unger — Mr. President, I ask that it be referred to the Committee on Printing.

The President — Mr. Unger moves that this resolution be referred to the Committee on Printing. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. M. Saxe asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. M. Saxe, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article I of the Constitution, by adding thereto a new section, in relation to the continued operation of franchises in cities.

The President — Committee on Cities.

Mr. Franchot — I ask unanimous consent for the introduction, by request, of the following Proposed Amendment to the Constitution.

The President — Mr. Franchot asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the Amendment will be received.

The Secretary — By Mr. Franchot, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, by adding thereto a new section creating the office of Auditor-General, to be filled by the Legislature in joint session.

The President — Committee on the Governor and Other State Officers with a copy to the Committee on State Finances.

Mr. Berri — I ask unanimous consent that I may submit the following Proposed Amendment to the Constitution.

The President — Mr. Berri asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. Berri: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article XII of the Constitution, with relation to general and special city laws, and more particularly with reference to mandatory legislation passed by the Legislature affecting cities.

The President — Committee on Cities with a copy to the Committee on Legislative Powers.

Mr. Low — Mr. President, I ask that a copy of Amendment 633, Introductory No. 617, be sent to the Cities Committee for information and opinion.

The President — Without objection that order will be made.

Mr. Quigg — Owing to what he would call the firmness but what I call the obstinacy of an otherwise excellent judge, I could not be present on Tuesday nor on Wednesday and that is my excuse for offering a late amendment. I ask unanimous consent to its present introduction.

The President — Mr. Quigg asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — Mr. Quigg: Proposed Amendment to the Constitution.

Second reading — To amend Section 2 of Article I of the Constitution, relative to reparative publicity in libel cases.

The President — Committee on Bill of Rights with a copy to the Committee on the Judiciary.

Mr. Dunmore — Mr. President, I ask unanimous consent for the introduction of an amendment by request.

The President — Mr. Dunmore asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? The chair hears none and the amendment will be received.

The Secretary — By Mr. Dunmore, by request: Proposed Amendment to the Constitution.

Second reading — To amend Sections 1, 4 and 6 of Article II, and Section 1 of Article XII, of the Constitution, in relation to the organization of summer resorts and qualifications of voters at their elections.

The President — Committee on Suffrage.

Mr. Cobb — Mr. President, I move to discharge the Committee on Cities from consideration of Amendment No. 666, Introductory No. 650, that the proposal be amended as indicated, reprinted and recommitted to the Committee on Cities, with a copy to the Committee on Counties, Towns and Villages, as before.

The President — Is there objection to that order? Without objection that order will be made.

Mr. Clinton — I hand up to the Clerk a resolution asking that certain bills be referred to other committees and that copies of them be sent to the Committee on Canals for information and report. They relate indirectly to canal affairs.

The President — The chairman of the Committee on Canals asks that copies of bills, Introductory Nos. 378, 172, 645, 364, 370, 219 and 475 be referred to other committees and copies sent to the Canal Committee for its information and expression of opinion as it may see fit. Is there objection to the order? Without objection the order will be made.

The President — Reports of standing committees.

Mr. Sears — From the Committee on Contingent Expenses, I offer this report and move the adoption of the resolution therein contained.

The Secretary — Mr. Sears, from the Committee on Contingent Expenses, to which was referred the resolution relative to the printing of the communication from the Lieutenant-Governor and Acting Governor dated June 8, 1915, relating to pardons and applications for pardons, introduced by Mr. J. S. Phillips, reports in favor of the adoption of the following resolution: That the communication from the Lieutenant-Governor and Acting Governor, dated June 8, 1915, in reply to a question of inquiry, heretofore adopted by the Convention, relating to the persons confined in the State prisons and pardons and applications for pardons, be printed as a document of the Convention.

The President — Is the Convention ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Further reports of standing committees.

Mr. M. Saxe — This is a report in the form of the introduction of a proposal by the Committee on Taxation, with the request that it be printed and recommitted to that Committee.

The Secretary — By the Committee on Taxation: Proposed Amendment to the Constitution.

Second reading — To amend the Constitution, by inserting a new article in relation to taxation.

The President — Referred to the Committee on Taxation.

Mr. Brackett — I offer the following report on behalf of the Committee on the Legislature and Its Organization.

The Secretary — The Committee on the Legislature, Its Organization, Etc., reports the following Proposed Amendment to the Constitution, entitled "Proposed Constitutional Amendment: To amend Section 4 of Article III of the Constitution, in relation to the apportionment of Senators and members of the Assembly."

Mr. Cullinan — Mr. President, may the Clerk read that entire amendment for the information of the House?

Mr. Brackett — Mr. President, I shall ask that it be put over until next Thursday, which will give ample time to have it printed. However, I shall be glad to have it read.

The Secretary will read the Proposed Amendment.

The Secretary — Section 4 of Article III of the Constitution is hereby amended to read as follows: (Strike out the following:) "An enumeration of the inhabitants of the State shall be taken under the direction of the Secretary of State, during the months of May and June, in the year one thousand nine hundred and five, and in the same months every tenth year thereafter; and the said districts shall be so altered by the Legislature at the first regular session after the return of every enumeration, that each". (Insert the following new matter:) "The Legislature shall at the regular or at a special session in the year one thousand nine hundred and twenty-six, or as soon thereafter as practicable, reapportion the Senate and Assembly districts. Each". (Old matter remaining:) "Senate districts shall contain as nearly as may be an equal number of inhabitants, excluding aliens," (new matter inserted) "according to the next preceding Federal census or State enumeration", and "so far as practicable be in compact form and consist of contiguous territory". (Stricken out) "and no county shall be divided in the formation of a Senate district except to make two or more Senate districts wholly in such county." (Old matter remaining) "No town, and no block in a city enclosed by streets or public ways, shall be divided in the formation of Senate districts". (Stricken out) "; nor shall any district contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

"No county shall have four or more Senators unless it shall have a full ratio for each Senator. No county shall have more than one-third of all the Senators; and no two counties or the territory thereof as organized, which are adjoining counties, or which are separated by public waters, shall have more than one-half of all of the Senators."

"The ratio for apportioning Senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by the total number of Senators", strike out, "Fifty, and the Senate shall always be composed of fifty members, except that if any county having three or more Senators at the time of any apportionment shall be entitled on such ratio to an additional Senator or Senators, such additional Senator or Senators shall be given to such county in addition to the fifty members, and the whole number of Senators shall be increased to that extent".

New matter: "In such apportionment, not more than one-half of all the Senators and not more than one-half of all the members of Assembly shall be chosen from the counties, as now constituted, wholly contained within a single city."

Mr. Brackett — Mr. President, I ask that this report go into general orders, and, with the permission of the Convention, until next Thursday, in order that the discussion on the other matter and the discussion on this Proposed Amendment shall be taken up at the same time; and I move to discharge that Committee, in order to have the discussion entirely in the Convention and all together and recommitted to the Committee of the Whole. I have no doubt, Mr. President, that the Committee will later ask that the amendment may be referred to it again for further consideration, but at the present time I do not ask it.

The President — This report reads, or is entitled: "Proposed Constitutional Amendment: To amend Section 4 of Article III of the Constitution, in relation to apportionment of Senators and members of Assembly."

The Chair thinks that that must be construed as the introduction of an amendment. The report does not recommend the passage of the Proposed Amendment. It does not report it for consideration; does not report it adversely; it does not report any action of the Committee upon it. It does report it as a Proposed Amendment, and Rule 30 provides that no proposition shall be introduced except (1), under the order of introduction of proposition for amendment by districts in numerical order, and (2), by report of a committee. This seems to the Chair to be an exercise of the power vested in the Committee under that rule, and it seems to the Chair that this should be read a second time and referred for some action by the Committee.

Mr. Brackett — The Committee has acted. It does not introduce a new Proposed Amendment, it reports one. I did not add to the language of the report and recommend its passage, because I had supposed and it seems to me now that if it was the introduction of a Proposed Amendment, the word "introduced" would be used instead of the word "report." I ask without at all challenging or doubting the correctness of the ruling of the Chair, that it may go into general orders, because the Committee has studied and reported this, and if the chairman has been inept in his language in the report, then he has failed to express the opinion of the Committee. The design of this was to report it so that it might go into general orders and if it should be referred back to the Committee, all that the Committee could do would be to meet at once and report it out.

The President — It is a matter of very little consequence how these rules are construed, so long as they are construed and followed consistently according to one construction or another. The terms of the rule are such as to make it a little difficult sometimes to reconcile, but upon the statement of the chairman of the Committee that this report is a report for the consideration of the Convention after action by the Committee, the Chair will, subject to the authority of the Convention, direct this Proposed Amendment to be read a second time, and then put the question upon agreeing to the report of the Committee, an affirmative vote on which will send the report to general orders. The Secretary will read the Proposed Amendment the second time.

The Secretary — Second reading — To amend Section 4 of Article III of the Constitution, in relation to apportionment of Senators and members of the Assembly.

The President — The question is upon agreeing to the report of the Committee upon Legislative Organization, reporting this Proposed Amendment which has now been read the first and second time. An affirmative vote upon that question will send the Proposed Constitutional Amendment to general orders. All in favor of agreeing to the report will say Aye, contrary No. The Ayes appears to have it.

Mr. Griffin — I call for a division, Mr. President.

The President — A division is called for. All agreeing to the report will rise and remain standing until counted.

The gentlemen will be seated.

All gentlemen who do not wish to vote both ways will be seated.

Those who are opposed to agreeing to the report will remain standing until counted.

The gentleman will be seated.

The report is agreed to. The amendment goes into general orders.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar of general orders.

The Secretary — General Orders, No. 1: By Mr. Austin.

Mr. Austin — Mr. President, I was about to move that that be laid aside, but in so doing I want to make this statement: I move that this bill be laid aside, not because I am not prepared to discuss it and the other amendment of mine on general orders calendar at the present time; but it has been brought to my attention by various leading members of the Convention that this week and next week are both given up to important committee hearings, and that therefore it might be inadvisable to discommodate many people coming here for these hearings by taking the time of the Convention for discussion of the very few amendments now on the general orders calendar. Therefore, unless some one else moves to go into general orders and to take up the Proposed Amendments now on the general orders calendar, at this time, I shall not move any of mine until Tuesday, the 29th.

Mr. Wickersham — Mr. President, there are only two other numbers on general orders, and I therefore move that the further call of general orders be discontinued for to-day.

The President — It is moved that the further call under general orders be discontinued for to-day. All in favor will say Aye, contrary No. The motion is agreed to.

Mr. Clinton — Mr. President, under the operation of the rule, there will not be, if I understand it correctly, presented to the Convention reports which go into general orders, showing amendments to the Proposed Amendments introduced by the Committee. The calendar simply shows the abstract of the titles of the original Proposed Amendment, and when a report comes in, the original amendment may have been amended so that the Convention will not have the matter before them and may know nothing about it practically, and it may go into general orders. Under the rule, I understand that nothing is printed except the report itself, where the committee reporting gives its reasons. I don't wish to make a motion at this time, but I wish to call the President's attention to it, and the attention of the Convention to it, because we will be in the dark on these matters. I am informed that the amended amendments may be reported, and will be reported as an entirely new document. If that is so, it clears the situation.

The President — The Secretary informs the Chair that whenever a committee reports a proposition amended, that proposition is placed upon the files in final form.

Mr. Clinton — I fail to find same on my files, Mr. President.

Mr. Barnes — Mr. President, I should like to ask for a change of reference in Bill 307, introduced by Mr. R. B. Smith, from the Committee on Legislative Powers to the Committee on Finance, which has under consideration the questions involved in this particular proposal.

The President — Is there objection to the change of reference proposed? The Chair hears none and it is so ordered.

Mr. Wickersham — Mr. President, I offer the following resolution and move its adoption. I do so at the request of a number of members who desire to make their arrangements now regarding the Fourth of July recess. The resolution proposes that when this Convention adjourns on Friday, July 2d, it adjourn to meet the following Wednesday at noon, so as to give the members of the Convention Tuesday, July 6th, as a business day, following the precedent we established over Memorial Day, and I move the resolution at this time in order that members may make their arrangements accordingly if this meets the general views of the Convention.

The President — The Secretary will read the resolution for the information of the Convention.

The Secretary — By Mr. Wickersham: Resolved, That when this Convention adjourns on Friday, July 2d, it adjourn to meet on Wednesday, July 7th, at 12 o'clock noon.

The President — Is there objection to the present consideration of the resolution? The Chair hears none and the resolution is before the Convention.

Mr. Low — I have no objection to offer to the passage of this resolution because I appreciate that it will accommodate probably all of the members of the Convention; but I do wish to call the attention of the Convention to the fact that we are losing very valuable time, and I hope that the Committee on Rules will bring in a rule before we adjourn for the July recess that will keep the Convention here for purposes of hearings and discussions on more than three days in the week.

The President — Are there any further remarks to be made upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The Secretary will read the announcements.

Mr. Quigg — Mr. President, it is with very profound regret that I have to announce to the Convention the bitter bereavement of my colleague from the Twenty-sixth District, Judge S. K.

Phillips, in the death of his mother. I move, sir, that when this Convention adjourn, it adjourn in the sentiment of respect and sympathy with Mr. Phillips.

The President — Mr. Quigg moves that as an expression of sympathy for our colleague, Mr. S. K. Phillips, in the bereavement which he has suffered in the death of his mother, when the Convention adjourn it adjourn as an expression of that sympathy. All who are in favor of that resolution will signify by rising. The gentlemen will be seated. The resolution is unanimously agreed to.

Mr. Wickersham — I move that we adjourn, Mr. President.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 11 a. m., the Convention adjourned to meet at 10 a. m. Friday, June 18, 1915.

FRIDAY, JUNE 18, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. C. M. Nickerson.

The Rev. Mr. Nickerson — Let us pray. Most gracious God, we humbly beseech Thee as for the people of this State, so also for the members of this Constitutional Convention here assembled, that it would please Thee to direct and prosper all their consultations for the advancement of Thy glory, the safety, honor and welfare of the people of the State, that all things may be so ordered by their consultations that peace and happiness, truth and justice, religion and piety may be established among us for all generations. Direct us, Oh Lord, in all our doings, with Thy most gracious favor, and further us with Thy continual help, that in all our works, begun, continued and ended in Thee, we may glorify Thy holy name, and finally by Thy mercy obtain everlasting life, through Jesus Christ, our Lord, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? The Chair hearing none, the Journal stands approved as printed and distributed.

Memorials and petitions.

The Chair lays before the Convention a memorial from the common council of the city of Middletown, in relation to the use of voting machines, which will be referred to the Committee on Suffrage.

Also a memorial from the common council of Middletown, relating to home rule, which will be referred to the Committee on Cities.

Mr. Haffen — I have here a communication from the Hon. Edward Polak, registrar of Bronx county, which, without any comment on my part, but on its contents, I ask to have referred to the Committee on Taxation for its consideration.

The President — If the member will send that memorial to the Secretary, that reference will be made.

Mr. Wood — I have a petition from the town board of the town of Wellsville, concerning voting machines, and I ask to have it sent to the Committee on Suffrage.

The President — The communication will be referred to the Committee on Suffrage.

Are there any further memorials or petitions?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Adams — Mr. President, on behalf of Mr. Donovan, I would like to ask unanimous consent for the introduction of a Proposed Amendment, if in order, at this time?

The President — Mr. Adams asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there any objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. Donovan: Proposed Constitutional Amendment.

Second reading — To amend Article I of the Constitution, in relation to authorizing measures for the prevention or cure of certain diseases.

The President — Referred to the Committee on Bill of Rights.

Mr. C. H. Young — Mr. President, on behalf of Senator Wagner, I ask for unanimous consent to introduce the following Proposed Amendment to the Constitution.

The President — Mr. C. H. Young asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. Wagner: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, in relation to the Court of Special Sessions of the city of New York.

The President — Referred to the Committee on the Judiciary.

Mr. Tanner — Mr. President, I ask that a copy of Proposed

Amendment No. 273, Introductory No. 270, be sent to the Committee on the Governor and Other State Officers.

The President — Without objection that order will be made.

Mr. Low — Mr. President, I ask unanimous consent to introduce a Proposed Amendment to the Constitution.

The President — Mr. Low asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection? Hearing none, the Proposed Amendment will be received and read.

The Secretary — By Mr. Low: Proposed Amendment to the Constitution.

Second reading — To amend Article VII of the Constitution, by adding a new section thereto in relation to pension systems.

The President — Referred to the Committee on Legislative Powers.

Mr. Low — I think, Mr. President, it had better go, with your permission, to the Committee on State Finances with a copy to the Committee on Legislative Powers.

The President — Referred to the Committee on State Finances with a copy to the Committee on Legislative Powers.

Mr. Haffen — Mr. President, I ask unanimous consent to introduce the following.

The President — Mr. Haffen asks unanimous consent to present a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and it will be received and read.

The Secretary — By Mr. Haffen: Proposed Amendment to the Constitution.

Second reading — To amend Section 4 of Article III of the Constitution, in relation to apportionment of Senators and members of Assembly.

The President — Referred to the Committee on Legislative Organization.

Mr. Blauvelt — Mr. President, I ask unanimous consent for the introduction of Proposed Constitutional Amendment.

The President — Mr. Blauvelt asks for unanimous consent to introduce a Proposed Amendment to the Constitution. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. Blauvelt, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to compensation for property taken or injured for public use.

The President — Referred to the Committee on Bill of Rights.

Mr. C. H. Young — Mr. President, I ask unanimous consent to present the following.

The President — Is there objection? The Chair hears none and the amendment will be received and read.

The Secretary — By Mr. C. H. Young: Proposed Amendment to the Constitution.

Second reading — To amend Article II of the Constitution, by adding thereto a new section relative to the qualification of voters.

The President — Referred to the Committee on Suffrage.

Mr. Landreth — Mr. President, I ask unanimous consent for the introduction of a Proposed Amendment to the Constitution.

The President — Is there objection? The Chair hears none and the Proposed Amendment will be read.

The Secretary — By Mr. Landreth, by request: Proposed Amendment to the Constitution.

Second reading — To amend Section 7 of Article I of the Constitution, in relation to certain public uses for which private property may be taken.

The President — Referred to the Committee on Bill of Rights, I think, with a copy to the Committee on Conservation.

The Secretary — By Mr. Landreth, by request: Proposed Amendment to the Constitution.

Second reading — To amend Article V of the Constitution, in relation to the Public Service Commission, its powers and duties.

The President — Referred to the Committee on Public Utilities with a copy to the Committee on the Governor and Other State Officers.

Mr. Hale — Mr. President, from the Committee on Rules, I suggest that the following be received by the Convention and lie over until Tuesday for action.

The Secretary — By Mr. Hale: Amend Rule 50, paragraph 1, as follows: After the word "debate" in line 1, paragraph 1, insert the words "whether reported by a committee or otherwise introduced."

Amend Rule 32 by striking out the words "agreed to" and inserting in lieu thereof the word "accepted" in the sentences relating to reports of Proposed Constitutional Amendments, so that those sentences will read as follows: "All Proposed Constitutional Amendments reported shall, if the report be accepted, be committed to the Committee of the Whole and immediately printed."

The President — The resolution will stand over until next legislative day.

The Secretary — By Mr. Cullinan: Resolved, That the Superintendent of Public Works be requested to furnish this Convention with a statement of the users of the surplus waters of the

canals or their feeders, for the development of water power or otherwise, and at what places on the canals said surplus waters are taken or used by said parties.

That the Superintendent of Public Works furnish this Convention with a statement showing what contracts or agreements have been entered into by and between the Superintendent of Public Works and the users of the surplus waters of the canals or their feeders.

The President — Referred to the Committee on Library and Information.

Mr. Wood — Mr. President, in behalf of Mr. Fobes, I ask unanimous consent to offer a Proposed Amendment.

The President — Without objection the amendment will be received.

The Secretary — By Mr. Fobes: Proposed Amendment to the Constitution.

Second reading — To amend Article XII of the Constitution, in relation to legislation affecting cities and incorporated villages and to powers of self-government by cities.

The President — Referred to the Committee on Cities.

Mr. R. B. Smith — Mr. President, I move to discharge the Committee on Legislative Powers from further consideration of certain Proposed Amendments for the purpose of amendment, recommittal and reprint.

The President — The Secretary will report the number of the amendments.

The Secretary — No. 362, by Mr. R. B. Smith; No. 278, by Mr. R. B. Smith.

The President — Without objection the Committee on Legislative Powers is discharged from further consideration of the amendments specified for the purpose of revision and recommittal.

The President — Mr. R. B. Smith asks unanimous consent for the introduction of a Proposed Constitutional Amendment. Is there objection? The Chair hears none and the amendment will be received.

The Secretary — By Mr. R. B. Smith: Proposed Amendment to the Constitution.

Second reading — To amend Article VI of the Constitution, by adding a new section thereto, in relation to power of judges of the Court of Appeals and justices of the Supreme Court to make rules and regulations.

The President — Referred to the Committee on the Judiciary.

Mr. Wood — Mr. President, in the absence of the chairman of the Committee on Charities, I ask that copies of Bill No. 519, Introductory No. 507, introduced by Mr. Rosch and referred to

the Committee on Prisons, and No. 593, introduced by Mr. Parmenter and referred to the Committee on the Governor and Other State Officers, be sent to the Committee on Charities.

The President — Without objection that order will be made.

Mr. Wood — And, Mr. President, at the same time, I ask unanimous consent for the adoption of the following resolution.

The Secretary — By Mr. Wood: Resolved, That the official stenographer is hereby directed to excuse the general stenographers from attendance and services on Saturday, Monday and Tuesday, July 3d, 5th and 6th.

Mr. Wickersham — Mr. President, I move that resolution be referred to the Committee on Rules.

The President — It is moved that the resolution be referred to the Committee on Rules. All in favor of the resolution say Aye, contrary No. The motion is agreed to.

Mr. Curran — Proposed Amendments Nos. 613, 614 and 615, introduced by me at the request of Delegate Dahm, I find they have been credited to me, and in the Index, printed as it should be, to Delegate Dahm, on whose behalf I introduced these Proposed Amendments. Whatever the method may be of having that changed, whether by moving to have it amended, or by moving to have the Committee discharged and then amended and recommitting, I would be only too willing to have it done as I do not want to be credited with the introduction of those Proposed Amendments. I introduced them on behalf of Mr. Dahm.

I tried for three days to have that done, to find out some way to change it, without the necessity of bringing it before the Convention. I found out that it was a difficult matter, because the only way the Record could be changed is by having the matter brought up here.

The President — Does Mr. Curran suggest any method?

Mr. Curran — I am frank to say that I do not know what the method is for making such a change. Whether it is by moving to strike out my name and inserting the name of Delegate Dahm, or moving to discharge the Committee from further consideration and then have it reprinted. I am only too willing to have it done; but I do not know what the method is.

The President — The Chair thinks that the proper procedure in connection with the Proposed Amendments is to move that the Committee be discharged from further consideration of the amendments, and that the Proposed Amendments should be reintroduced by Mr. Dahm and then they would be reprinted accordingly.

But when any member of the Convention introduced a Proposed Amendment for some one else, it is nevertheless the member who is present and who introduces the amendment. A member of the

Convention cannot act by proxy. It is not the act of the absent member. It is the act of the present member by the request of the absent member, just as a member can introduce a Proposed Amendment at the request of any one and state that fact.

Now, the only thing that I can see that can be done about these amendments is that Mr. Curran should move that they be reprinted and that there be printed upon the face of the paper, upon the face of the new print, a statement that they were introduced at the request of Mr. Dahm.

The Chair sees no objection to that, and if there be no objection, then, by unanimous consent, that order will be made, that these Proposed Amendments be reprinted with a statement upon them of their being introduced by Mr. Dahm.

The President — Reports of standing committees.

Reports of select committees.

Mr. Wickersham — I was waiting to hear the Clerk call the list of committees, and if they are not to be called, I will offer the following resolution from the Committee on Library and Information, and I move its adoption.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Cullinan, May 27, 1915, relative to obtaining certain information from the State Engineer and Surveyor, reports in favor of the adoption of said resolution.

Mr. Wickersham — Mr. President, I ask unanimous consent for the present consideration and adoption of that resolution.

Mr. Low — Mr. President, may the resolution be read?

The President — The Secretary will read the resolution.

The Secretary — By Mr. Cullinan: Resolved, That the State Engineer and Surveyor furnish this Convention with a statement showing the localities where the surplus waters of the canals of the State were used by persons, associations, corporations or others for the development of water power, prior to the construction of the Barge canal improvement, pursuant to the terms of the act in that behalf and the referendum approving the same; and what moneys, if any, were paid or contracted to be paid for the same.

That the State Engineer and Surveyor furnish this Convention with a statement showing the localities where and the amount of water power development arising out of the construction of the Barge canal improvement, together with the names of the persons, associations, corporations or others using the surplus waters of the canal for the development of water power; and what moneys are being paid or contracted to be paid for the same.

The President — Is the Convention ready for the question on the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Wickersham — Mr. President, I offer the following resolution from the Committee on Library and Information. I ask for unanimous consent for its immediate consideration and I move its adoption.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Kirby, June 10, 1915, relative to obtaining certain information from the Comptroller, reports in favor of the adoption of said resolution.

Mr. Low — Mr. President, may the resolution be read?

The President — The resolution will be read by the Secretary.

The Secretary — By Mr. Kirby: Resolved, That the Comptroller be directed to furnish the Convention with the amounts paid during the last fiscal year to special counsel to the Attorney-General, the amounts paid to attorneys and counsel to the various departments of the State government and the amounts paid to attorneys in the various counties in the State in the matter of the collection of transfer taxes.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Wickersham — Mr. President, from the Committee on Library and Information, I ask unanimous consent for the consideration of the following resolution and I move its adoption.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Wickersham, June 17, 1915, relative to obtaining certain information from the clerks of the Appellate Divisions of the Supreme Court of the Second, Third and Fourth Departments, reports in favor of the adoption of said resolution.

The President — The Clerk will read the resolution referred to.

The Secretary — By Mr. Wickersham: Resolved, That the clerks of the Appellate Divisions of the Supreme Court in the Second, Third and Fourth Departments, respectively, be and they are hereby requested to furnish this Convention with the following information:

The number of appeals from judgments or final orders disposed of in their respective courts during each of the two years last past, specifying (1) The number of affirmances and modifications of judgments or final orders in special proceedings and the number of reversals; (2) the number of such cases involving questions of constitutional law; (3) the number involving the interpretation of general statutes of the United States and of this State; (4) the number of cases involving questions of criminal law; (5) the number of cases involving interpretation of municipal charters; (6) the number of cases involving interpretation

of wills; (7) the number of cases arising out of contract; (8) the number of cases arising out of actions in tort; (9) the total number of returns filed in said courts respectively during each of said years and the total number of cases disposed of; and (10) the total number of cases involving interlocutory questions of practice.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Wickersham — Mr. President, I move that the following resolution be adopted.

The Secretary — Resolved, That with a view to the preservation for future reference and use of the data upon which the Convention and its committees act, the clerks of all the committees of the Convention charged with any part of the work on the revision or amendment be, and they hereby are, directed to preserve all statements of facts, answers to inquiries, printed and written documents, official communications, petitions, memorials and communications from institutions, corporations and voluntary associations coming to their hands.

All such papers as are not returned to the Secretary of the Convention shall, when the respective committees have no further use for them, be delivered to the clerk of the Committee on Library and Information.

All such papers as shall be returned to the Secretary of the Convention shall, when the Convention has no further use therefor, be delivered by the Secretary to the clerk of the Committee on Library and Information.

The Committee on Library and Information is instructed to provide for the permanent deposit of all such papers in the State Library, or otherwise, so that they may continue available for reference.

Mr. Wickersham — Mr. President, I ask that that resolution lay over until the next legislative day.

The President — Is not that a proper subject for reference to the Committee on Library and Information?

Mr. Wickersham — I ask that it be so referred.

The President — That reference will be made, if there is no objection.

Mr. Lindsay — May I ask what becomes of this information that we are continually calling for to be provided to the Convention? So far, of all the matters that have been called for, I do not recollect of having seen any. Do they go to the Committee, or are they printed, or are they in such a position that the members of the Convention may have reference to them?

Some time ago, we ordered printed, as I recollect, a large number of taxation reports. Personally, I have not seen any of those yet.

Mr. Wickersham — Mr. President, for the information of the delegate, may I call his attention to the fact that in the printed documents are the replies to almost all of the several resolutions which have been adopted by the Convention asking for information, and the other replies are in the hands of the clerks of those committees requesting it. The resolution just introduced and referred to the Committee on Library and Information calls for the custody and arrangement of all the information furnished to the Convention and its respective committees, to preserve it, anticipating the requirements of the delegates and to preserve it for future historical purposes.

Mr. Brackett — Mr. President, I want to suggest to my leader, I do not know that it needs to have any amendment to the resolution, but the Committee on Library and Information, in order to have all this mass of material readily available, will of course prepare a very careful index in case any of us want to come down there to do work; and to do it, and in order that it should have any value, that material should be carefully indexed. I should presume that would be done without any direction but I want to suggest it to the delegates.

The President — The Secretary advises the Chair that immediately upon the passing of these resolutions by the Convention they are sent to the proper parties, and when the information requested is received it is placed before the Convention and if the Convention so desires it is then printed as a document. If the information is not printed the original material is filed for reference with the clerks of the various committees requesting the information.

The President — Reports of select committees.

Mr. Bunce — Mr. President, under the heads of reports of committees, I offered a resolution yesterday which was referred to the Committee on Rules and acted favorably on and I would like to have the report read, that Evart M. Howland be appointed messenger in place of Victor Adams, resigned. I ask unanimous consent for the consideration of the motion.

Mr. Wickersham — Mr. President, I ask that the motion be read before action is taken on the request.

The Secretary — Resolved, That Evart M. Howland be appointed messenger in place of Victor Adams, resigned.

The President — Is there objection to the request for immediate consideration? The Chair hears none. Those in favor

of the resolution say Aye, contrary No. The resolution is agreed to.

Third reading.

Unfinished business of general orders.

Special orders.

General orders. The Secretary will call the calendar of general orders.

Mr. Wickersham — Mr. President, I move that the reading of the calendar be dispensed with to-day.

The President — All in favor of the motion will say Aye, contrary No. The motion is agreed to.

The Secretary will make announcements.

The Secretary — Resolution adopted by the Committee on the Judiciary at meeting held June 17, 1915.

Upon motion duly made and seconded, it was

Resolved, That after July 1st there will be no further hearings before the Committee on the Judiciary except upon matters for which the Committee shall by special resolution fix a hearing.

Mr. Wickersham — I move we adjourn, Mr. President.

The President — It is moved that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 12 o'clock noon on Tuesday next.

Whereupon, at 10:40 a. m., the Convention adjourned to meet at 12 o'clock noon, Tuesday, June 22, 1915.

TUESDAY, JUNE 22, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Charles H. Hess.

The Rev. Mr. Hess — Our Heavenly Father, we thank Thee for the land in which we live. We thank Thee that in it we may live under the best government of which we are worthy, and we thank Thee for the sacrifices made by our forefathers that we might enjoy these blessed privileges. Do Thou grant that we may cherish them with loving fervor and that we may with patriotic zeal do all that we can to guard the same against all intrusion of the enemies of popular liberty and government.

Bless, we pray Thee, this entire State; bless the organization that is meeting in our city; bless the Grand Army of the Republic. We thank Thee for their sacrifices on the march and on the battlefield.

We ask that Thou wilt grant to bless the members of this Convention and may the work that they do here make it easier for every one to do right, harder for any one to do wrong, and grant that all may live under the influence and under the inspiration of the blessings of the Christian religion. We ask it in our Saviour's name, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal is approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a memorial from the representatives of various agricultural organizations of the State which will be referred to the Committee on the Governor and Other State Officers with a copy to be sent to the Committee on Conservation of Natural Resources.

Are there any other memorials or petitions?

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the Secretary of State in compliance with the resolution of the Convention calling for certified copies of the Proposed Amendments to the Constitution to be submitted to the people under action of the Legislature.

Mr. Wickersham — I ask that that be referred to the Committee on Library and Information.

The President — That reference will be made.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. J. G. Saxe — Mr. President, I move to discharge the Committee on Suffrage from further consideration of Amendment Introductory No. 4, to reprint as indicated and recommit to the Committee.

The President — Is there objection to the order proposed? Without objection that order will be made.

Mr. Wickersham — I ask that Proposed Amendments Nos. 11, 17, 43, 116, 408, 197, 206, 267, 292 and 604 be referred to the Committee on the Judiciary for expression of its opinion. They all refer to matters which have already been referred to the Committee either for expression of opinion or otherwise.

The President — Without objection copies of the amendments designated will be sent to the Committee on the Judiciary, with customary authority.

Mr. Haffen — Mr. President, I have received the following communication from the Bronx Board of Trade, which I desire to have referred to the appropriate committee.

The President — That reference will be made: The appropriate committee or committees being — the first paragraph of the memorial to the Committee on Cities; and the second paragraph to the Committee on State Finances; and the third paragraph to the Committee on Legislative Organization.

Mr. C. H. Young — Mr. President, I move to discharge the Judiciary Committee from consideration of No. 475, and I offer the following amendments, and I move that, when reprinted, it shall be referred back to the Judiciary Committee.

The President — Without objection, that order will be made.

Mr. Austin — Mr. President, I move that the Committee on State Finances be discharged from the further consideration of Proposal No. 521, Introductory No. 509, that it be amended as indicated, reprinted and recommitted.

The President — Without objection that order will be made.

Mr. Mereness — Mr. President, the County, Town and Village Officers Committee has been requested to submit the following.

The President — That will be an order under the head of reports of committees, and will be laid on the table for the present.

Mr. Hale — Mr. President, on Friday last the proposal to amend Rules 50 and 32 offered by me was laid on the table until this morning. I now request that they be taken from the table and recommitted to the Committee on Rules.

The President — Without objection, that order will be made.

Mr. Hale — And, Mr. President, I would like to make the request now that when a resolution which I am now writing out is prepared that I may offer it.

The President — The right to offer the resolution will be reserved.

Mr. Curran — Mr. President, I desire to offer the following.

The Secretary — By Mr. Curran: Resolved, That the memorial of the New York State Federation of Labor, laid before the Convention by the President on June 15th, be printed as a public document.

The President — Referred to the Committee on Contingent Expenses.

The President — Reports of standing committees.

If there is no committee prior in order of the enumeration of Rule 15, which has a report to present, the report from Mr. Mereness, from the County, Town and Village Officers Committee, will be laid before the Convention.

The Secretary — The Committee on County, Town and Village Officers: Proposed Constitutional Amendment.

Second reading — To amend Section 1 of Article X of the Constitution, by providing for coroners.

The President — The Chair thinks that should go to the Committee on the Judiciary. Has Mr. Mereness any suggestions to make?

Mr. Mereness — That amendment was introduced by request, by the Committee on County, Town and Village Officers, and it simply proposes to reinstate in that section the office of coroner as it was before the Constitution was revised in 1894. It seems to me that the Committee on County, Town and Village Officers is the one to report primarily upon that proposition.

The President — That opportunity to bring forth the fruits of repentance will be afforded to Mr. Mereness by reference of the Proposed Amendment to the Committee on County, Town and Village Officers, and a copy to the Committee on the Judiciary.

Mr. Mereness — This amendment is introduced entirely by request and is a courtesy extended by this Committee.

Reports of select committees.

Third reading.

Unfinished business on general orders.

Special orders.

General orders. The Secretary will call the calendar.

The President — No bill on the calendar being moved, is there any further business to be laid before the Convention?

Mr. Hale — Mr. President, availing myself of the right which I reserved, I offer the following, at the request of Mr. Brackett.

The President — At this point, under the order of resolutions and motions, Mr. Hale offers the resolution which the Secretary will now report.

The Secretary — By Mr. Hale, at the request of Mr. Brackett: Resolved, That Rule 32 be amended by striking out the second sentence and inserting in place thereof the following: "All the Proposed Constitutional Amendments, reported favorably, shall be committed to the Committee of the Whole and immediately printed, unless otherwise ordered."

The President — The Committee on Rules. Any further business to be brought before the Convention?

Mr. Curran — May I ask for a point of information? I am a little interested in the Proposed Amendment coming here because I understood Mr. Barnes had served notice last week that he would object to any Proposed Amendment to be offered hereafter. Now, that is an amendment to the Constitution, and is that a subject-matter for the Committee on which it has reported here? If it is, and it has a right to, why, all the objections the delegates may raise in this Convention will have no weight whatever, because any amendment that a man may have power enough through his Committee to introduce will be continually introduced here,

and it seems to me if you are going to facilitate the work of this Convention, there should be some rule whereby matters proposed as Proposed Amendments of the Constitution, from committees, should come from a subject-matter they have in charge, instead of irrespective matters that they have in their committees. I want to serve notice of that, because I realize the fact that we should begin to do business, and I know that more amendments will be introduced, and this will be the method that may be used to introduce Proposed Amendments, and any objections cannot prevent that Proposed Amendment being introduced in the Convention. If I introduce some Proposed Amendment as an individual, you raise an objection and it is dead. The other method introduces them all day long. I think, Mr. President, we ought to understand one another. I am sure I am not familiar enough to say that I am right, but my judgment seems to lead me to believe that that is bad procedure.

Mr. Barnes — I should like to have the Chair rule as to whether the introduction by Mr. Mereness is properly a report of a committee. Of course, you have already accepted it in referring it.

The President — The Chair received and referred the Proposed Amendment as being a just exercise of the authority of a committee under Rule 30 which is, "No proposition for Constitutional Amendment shall be introduced in the Convention, except in one of the following modes, viz.: (1) Under the order of introduction of proposition for amendment by districts in numerical order. (2) By report of a committee."

The Committee on County, Town and Village Officers, by report, introduced the amendment, not having passed upon it, but simply having resolved to introduce it. The Chair was of the opinion that that was in the power of the Committee. The Convention has, by resolution, discontinued the call of the districts for the introduction of Constitutional Amendments, and no single member of the Convention now can introduce a Proposed Amendment, unless it be by unanimous consent.

Mr. Curran — Mr. President, providing I desire to introduce a Proposed Amendment, and I present it to whatever committee I see fit — I present it and they agree, or one of its members agrees to present it to the Convention, that Proposed Amendment does not need to receive unanimous consent; that is, it is proposed, the same amendment is proposed, and no one can object to its being introduced as a Proposed Amendment. Now, why I speak of that, Mr. President, I want to see that the work is done and I have not any objections to the rules that are made. I want to live up to the rules, and I want to be at least familiar

with them, and it seems to me — my judgment doesn't amount to anything, but I think there ought to be some method to prevent it. Now, the members of the committees have ideas; they formulate those ideas in their own minds, and sometimes it is not the opinion of the committee, but the committee agree to the resolution and they present it, and you can't prevent its being sent to whatever committee it sees fit. It is an opportunity that an individual has not got, and I believe that the report of the committee on any Proposed Amendment — they should draft a report stating their reasons, and I would be perfectly satisfied that everything is all right, but in the present manner it is unjust. It does not say any report of the committee; it is the chairman says that is the report of the committee. Why not have the committee present a report to this Convention, and state in that report its reasons, and then I do not believe there would be any objection.

Mr. Fancher — It seems to me that some proper, though simple, recognition ought to be made of the fact that we have in our midst this week the Grand Army of the Republic, and I suggest, Mr. President, subject to the approval of the Convention, that some manner of recognition be made of this fact. I do not care in what form it may be, only that it be a simple, genuine recognition of the fact that they saved the Republic.

It has been suggested by my judicial friend here that perhaps a committee might be appointed which could make a report to-morrow morning as to the proper method of that recognition.

The President — It is moved by Mr. Fancher that a committee be appointed to consider and report to the Convention to-morrow morning an appropriate form of expression from the Convention to the members of the Grand Army of the Republic while convening in the city of Albany.

Mr. Wickersham — Mr. President, I move to amend that the Committee on Rules be requested to report what if anything should be done in recognition of the presence of the Grand Army of the Republic.

Mr. Fancher — My only objection to that, Mr. President, is that it seems to me that it should come from this whole body.

Mr. Wickersham — Well, the Committee on Rules represents the whole body and it seems to me that it is the fitting mechanism to consider what should be done, and the manner in which it should be done will be reported to the whole body and then the action will be taken by the whole body.

Mr. Fancher — That will be all right.

The President — The Chair understands that the amendment

will be accepted. All in favor of the resolution that the Committee on Rules be requested to report to-morrow morning an appropriate form of expression from the Convention to the Grand Army of the Republic will say Aye, contrary No. (Mr. Whipple voting in the negative.) The resolution is agreed to.

Any further business to come before the Convention?

The Secretary will make announcements.

Mr. Wickersham — I move that we adjourn, Mr. President.

The President — It is moved that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 12:28 p. m., the Convention adjourned to meet at 10 a. m., Wednesday, June 23, 1915.

WEDNESDAY, JUNE 23, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. J. Addison Jones — Let us pray. Our Lord, our God, we thank Thee for Thy care over us during the night watches, and we beseech Thee to attend us with Thy favor as we enter upon the events and experiences of this day. Thou hast given unto us treasures of wisdom and talent and strength in earthen vessels that we may learn our need of trust in Thee, and we pray that Thou wilt help us so to develop our bodies and our minds that they may be most effective in the service appointed unto us. Preserve us from the shame and folly of idleness and from the temptation to presumptuous overwork for merely worldly gain of wealth or reputation. Grant, we beseech Thee, that in any hour of supreme need, we may be willing to spend ourselves unto the uttermost for the welfare of others, for the good of our country and for the glory of our God. Especially we ask Thy blessing upon the men of the Grand Army of the Republic who have come from many parts of this State to an assembly in this city. Have them in Thy gracious keeping while they are here, safeguard them against all illness and injury, and grant unto them journeying mercy that they may return unto their homes in safety. We thank Thee for their willing service and splendid heroism in time of national crisis, and may those of us who benefit from the blessings which they secured for our nation render unto them a due measure of honor and esteem, and may our souls be animated by the same spirit in each new

call to service that we may set ourselves to overcome the influences that are oppressive and divisive and to foster those influences which make for the stilling of strife and the blending of all antagonisms, and for the uniting of our people in spirit and in purpose. Grant these gifts for Thy Name's sake, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal is approved as printed.

Mr. Whipple — I rise to a question of personal privilege.

The President — The gentleman will state the question.

Mr. Whipple — I find that in a vote taken yesterday I am recorded in the negative, when, in view of the facts as I now understand them to exist, I should be recorded in the affirmative. The gentleman from Delaware made a motion for a committee to be appointed to devise some method by which we could pay our respects to the Grand Army of the Republic. The gentleman from New York moved to amend the motion, and being unable to hear in this section of the House I did not know that the amendment was accepted and assumed that the Chair was putting the amendment, to which I was opposed, that is, to refer the question to the Committee on Rules, because I was in favor of a special committee in order that we might pay the greater honor to the Grand Army, and I voted in the negative. Being the son of a soldier, who did not return, I dislike to have the Record represent me as being opposed to a committee to do them honor and I would like to have my vote recorded in the affirmative if that may be done by unanimous consent.

Mr. Wickersham — Mr. President, I would like to say to the gentleman that no lack of honor or respect for the Grand Army of the Republic was implied in the motion to refer to a special committee, and I think when the gentleman hears the report which will be brought in this morning he will be entirely satisfied. I myself am a son of a veteran of the Civil War and I am the last one to be lacking in any respect to them.

Mr. Whipple — I am entirely satisfied with the whole proceeding but I am stating that I misunderstood the question and am therefore recorded incorrectly and would like to be recorded correctly.

The President — The statement of the gentleman will be entered as an explanation to the Record.

The President — Presentation of memorials and petitions.
Communications from the Governor and other State officers.
Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Reeves — I offer the following resolution and I move that it be referred to the Committee on Library and Information.

The Secretary — By Mr. Reeves: Resolved, That each of the commissioners of public records in the counties of New York and Kings be requested to furnish to this Convention, with all convenient speed, the following information relative to the organization, work and expenses of his office:

First. The number of employees in his office.

Second. The salary paid to each such employee, and the total amount of salaries paid.

Third. The total expense of his office per year.

Fourth. The nature and amount of the work thus far done, and how it has progressed from year to year during the continuance of the office.

Fifth. The nature and amount of the work yet to be done, especially with reference to the reindexing of the records and putting them into permanent form.

The President — Referred to the Committee on Library and Information.

Mr. Foley — I move the discharge of the Committee on Public Utilities from further consideration of my Amendment No. 98, for the purpose of amendment, reprint and recommittal.

The President — Without objection that order will be made.

Mr. Bell — I would like to ask permission to find out whether it would be possible to have a Proposed Amendment, No. 627, Print No. 643, transferred from the consideration of the Committee on the Governor and Other State Officers to the consideration of the Committee on Prisons and the Prevention and Punishment of Crime.

The reason for that is that those two amendments, the one before this introduced by Mr. Marshall, and this one, introduced by me, are practically identical.

The one introduced by Mr. Marshall was referred to the Committee on Prisons and the Prevention and Punishment of Crime, and this one is so nearly like the other one that our Committee would like to have both of them before us if possible.

I spoke to Mr. Tanner about it, but he is not here now, and I do not think he would have any objection if the facts were clearly laid before him. I should not want a motion taken on this without Mr. Tanner being present, but I did not feel as though I could let it go by, even though he was not here.

The President — The motion can be made some time later, without objection.

Mr. Low — I ask that a copy of Amendment No. 275, Introductory No. 272, introduced by Mr. Vanderlyn, be sent to the Committee on Cities for its information and opinion.

The President — Without objection that order will be made.

Mr. Marshall — I move that copies of the following Proposed

Amendments be sent to the Committee on Bill of Rights for their information and opinion: Nos. 23, 59, 95, 117, 197, 282, 417, 420, 451, 487, 561, 659 and 590. In some of their aspects they have a bearing upon the work which is now being done by this Committee.

The President — Is there any objection to the order? Without objection the order will be made.

Mr. Stimson — I ask that amendment, Introductory No. 683, Print No. 703, introduced by Mr. Low, in reference to the pension system in the civil service of this State, be transferred from the Committee on State Finances, to which it has been referred, to the Committee on Civil Service. I do this with the consent of the introducer of the amendment. It seems to me it belongs to that Committee which is considering several analogous questions.

The President — Without objection this order will be made.

Mr. M. Saxe — I offer the following.

The Secretary — Mr. M. Saxe, from the Committee on Taxation, submits the following: Resolved, That after due consideration, the Committee finds that Proposed Amendment No. 267, Introductory No. 264, relates to a policy of State finance and requests that the Committee on Taxation be discharged from the primary consideration of said amendment and that it be referred to the Committee on State Finances, Revenues and Expenditures with a copy to the Committee on Taxation for information and opinion.

The President — Is there any objection to the resolution? Without objection the resolution has been adopted.

Mr. Wiggins — At the request of Mr. Rosch, who is temporarily absent from the room, I offer the following resolution.

The Secretary — By Mr. Rosch: Resolved, That Lee V. Gardner, now employed as messenger, be transferred to the position of assistant mailing clerk, at a salary of \$5 per day.

Mr. Wiggins — Mr. President, I move that the resolution be referred to the Committee on Contingent Expenses.

The President — Without objection that reference will be made.

The President — Reports of standing committees. Are there any reports of standing committees?

Mr. Stimson — On behalf of the Committee on State Finances I am authorized to offer the present amendment which I ask to have read twice and referred to the Committee on State Finances for its report. It relates to matters which are pending before that Committee in the shape of several other amendments and is, as it were, the work of a subcommittee of the Committee on State Finances which it is desired to have printed and referred back to that Committee for its further consideration.

The Secretary — By the Committee on State Finances: Proposed Amendment to the Constitution.

Second reading — To amend Sections 2, 4 and 5 of Article VII of the Constitution, in relation to debts contracted by the State.

The President — Referred to the Committee on State Finances.

Mr. J. L. O'Brian — Mr. President, the Committee on Rules makes the following report.

The Secretary — The Committee on Rules, acting under the direction of the Convention upon the resolution offered by Mr. Fancher on the 22d of June, recommended the adoption of the following resolution: Resolved, That with a deep sense of the debt of gratitude which the people of the State of New York in common with all Americans owe to the men who preserved the Union in the great Civil War of 1861 to 1865, the members of the Constitutional Convention of the State of New York join with the citizens of Albany in a heartfelt welcome to the members of the Grand Army of the Republic upon their Annual Encampment in the capital city of the State.

Resolved, That a committee of seven members of the Convention be appointed by the Chair to represent the Convention upon the review of the Grand Army and that the officers of the Convention be *ex officio* members of the committee.

Mr. J. L. O'Brian — Mr. President, I move that that report be accepted and the resolutions therein contained be adopted.

Mr. Fancher — May I ask, Mr. President, that the vote be a rising vote? It seems to me that this Convention would honor itself in honoring the Grand Army.

The President — All in favor of the resolution will signify it by rising.

The gentlemen will be seated. The resolution is unanimously adopted.

The Chair will announce as the committee Mr. Fancher, Mr. Stowell, Mr. Weed, Mr. Wadsworth, Mr. Sheehan, Mr. Wickersham and Mr. Stimson, together with the officers of the Convention as members *ex officio*.

The Secretary will hand to the Chairman of the Committee, Mr. Fancher, tickets of admission to the central reviewing stand. May the Chair inquire if there is any definite information as to the time when the parade of the members of the Grand Army of the Republic will pass the reviewing stand? The Chair understands the parade is to start at ten o'clock.

Mr. Fancher — Mr. President, I believe that the parade will start about ten o'clock and reach the stand about ten-thirty, but the President will be notified as to the time.

The President — Will the members of the Committee be good enough to call upon the Secretary for tickets of admission to the stand, and to convene in the President's room immediately after the adjournment of the Convention?

Mr. J. L. O'Brian — I submit a further report from the Committee on Rules and move that the report be accepted.

The Secretary — The Committee on Rules recommends the adoption of the following amendments to Rule 56 in relation to suspension of the Rules, as follows:

In the sentence "A motion to suspend the rules shall in all cases state specifically the object of the suspension and every case of suspension of a rule under such notice or motion shall be held to apply only to the object specified therein," after the word "cases" insert the words "be made upon one day's notice which shall" so that the sentence will read as follows:

"A motion to suspend the rules shall in all cases be made upon one day's notice which shall state specifically the object of the suspension and every case of suspension of a rule under such notice and motion shall be held to apply only to the object specified therein."

Mr. J. L. O'Brian — The change proposed in this resolution is simply to require one day's notice to be given of a motion to suspend the rules. It is the customary parliamentary practice that one day's notice of motion be given. The rules of the Senate require one day's notice of such motion; the rules of the Assembly also require one day's notice of such motion. Inasmuch as the main purpose of rules is to insure proper preparation and to prevent haste on important matters, it is thought by the Committee on Rules that that wise provision should be inserted in the rules of this body. As the rule at present reads the language is somewhat ambiguous as the sentence reads as follows in rule 56: "A motion to suspend the rules shall in all cases state specifically the object of the suspension and every case of suspension of a rule under such notice and motion shall be held to apply only to the object set forth therein." This sentence has given rise to a difference of opinion as to whether the sentence as it stands requires a day's notice to be given. In order to remove that ambiguity, make the rule explicit, and in order to make the rule conform to customary parliamentary procedure, the Committee recommends that the rule be amended as stated in this report, to include a requirement for one day's notice of motion to suspend.

Mr. Quigg — I think there is one other consideration that we should have in mind, that our rules are very elastic, that a majority of the Convention can suspend the rules, that the usual provision requiring a two-thirds vote does not obtain there and there

certainly ought to be under those circumstances some information given to the Convention before a motion to suspend should be voted on. I heartily approve the amendment.

The President — All in favor of the resolution say Aye, contrary No. The motion is agreed to.

Mr. J. L. O'Brian — I submit a further report from the Committee on Rules and move its adoption.

The Secretary — The Committee on Rules, to which was referred the resolution offered by Mr. Hale at the request of Mr. Brackett on the twenty-second of June, have duly considered the same and recommend the adoption thereof as follows:

"In Rule 32 strike out the words 'all proposed constitutional amendments reported shall, if the report be agreed to, be committed to the Committee of the Whole and immediately printed,' and insert in lieu thereof the words 'All proposed constitutional amendments reported favorably shall be committed to the Committee of the Whole and immediately printed unless a different order be made not inconsistent with Rule 34.'"

Mr. Quigg — Mr. President, is there any objection to that lying over until the Senator from Saratoga is here?

Mr. J. L. O'Brian — No, there is no objection on the part of the Committee.

The President — Without objection the reported resolution will lie over until the next legislative day.

Mr. Quigg — I should say until Tuesday, if the chairman of the Committee sees no objection to its lying over until Tuesday. I doubt if Mr. Brackett will be here before then; he may get here to-morrow.

Mr. J. L. O'Brian — I do not understand that the amendment as reported differs materially from that suggested by Senator Brackett, but I think he should be accorded the privilege of being heard upon it and I shall make no objection to its standing over until Tuesday.

The President — The resolution shall stand over and the question when it shall come up may be arranged later.

The Chair lays before the Convention a communication from the Comptroller of the State in response to a resolution offered by Mr. Wagner on the fifth of May referred to the Committee on State Finances.

Are there any further reports of standing committees?

Reports of select committees?

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The President — The call of the Calendar is concluded and no amendments are moved. The Chair will recognize Mr. Bell, who wishes to make a motion.

Mr. Bell — Mr. President, I wish to move Introductory No. 627, Printed No. 643, be moved from the Committee on Governor and Other State Officers for the consideration of the Committee on Prisons and the Prevention and Punishment of Crime. I have explained the reasons to Mr. Tanner and I think he understands them. If there is any further necessity I will be glad to say more.

Mr. Tanner — Mr. President, I have just received this memorandum and have not had an opportunity to study these proposed amendments, so I suggest to Mr. Bell that action on his proposed amendments be deferred until to-morrow.

The President — The motion will stand over until to-morrow. The Secretary will make the announcements.

Mr. Wickersham — I move we adjourn, Mr. President.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:30 a. m., the Convention adjourned to meet at 10 a. m., Thursday, June 24, 1915.

THURSDAY, JUNE 24, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Charles M. Nickerson.

The Rev. Mr. Nickerson — Let us pray. Heavenly Father, Lord of all power and might, the author of all good things, without whom nothing is strong, nothing is good, who hast taught us in Thy Holy Word that all our doings without Thee are nothing worth, send Thy Blessing, we beseech Thee, upon the members of this Convention; save them from ignorance, prejudice and evil influences; give them wisdom and understanding and conscientiousness in the work in which they are engaged. May the result of their deliberations here conduce to the safety and the well-being of this State, to the impartial administration of justice, to the protection of the poor and the weak and the helpless; to the enactment of wise and just and beneficent laws. Grant, we beseech Thee, O Lord, Thy Spirit, that we may do all things that are right, that we who cannot do anything that is good without Thee may by Thee be enabled to live according to Thy will, through Jesus Christ, our Lord, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed the Journal stands approved as printed.

Presentation of memorials and petitions. Are there any memorials or petitions? The Chair hands down a communication from the Intra-City Civic League, which will be referred to the Committee on Bill of Rights.

Are there any further memorials or petitions?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Latson — It has been brought to the attention of the chairman of the Committee on Canals, Mr. Clinton, as well as to my own attention as chairman of the Committee on Militia, that the stenographer employed and assigned to these two committees is confined to her home by illness, and for that reason, after consultation with Mr. Clinton, I offer the resolution that Miss Lillian Temple, because of illness, be excused from duty as stenographer for this week.

The President — Is there objection to that resolution? Without objection the excuse is granted.

Mr. Bayes — Mr. President, I offer the following resolution and ask that it be referred to the Committee on Library and Information.

The Secretary — By Mr. Bayes: Resolved, That the Secretary of State be, and he hereby is, directed to transmit to this Convention, as soon as may conveniently be done, the number of indictments for murder in the first and second degrees found by grand juries of the various counties of this State for the past five years up to January 1, 1915, and the number of convictions of each degree had upon such indictments, including pleas of murder in the second degree.

The President — Committee on Library and Information.

Mr. Low — I hold in my hand a resolution adopted by the city of Middletown in regard to voting machines. It was referred to the Committee on Cities, and I think it belongs to the Committee on Suffrage, and I suggest that it be withdrawn from the Committee on Cities and referred to the Committee on Suffrage.

The President — Without objection that order will be made.

Mr. Olcott — I move that the Committee on Public Utilities be discharged from further consideration of Proposed Amendment 252, which was numbered in the Introductory 249, for the purpose of amendment, and I offer a proposition in place thereof, and ask to have the latter reprinted and recommitted to the Committee on Public Utilities.

The President — Without objection that order will be made.

Mr. Franchot — On behalf of Mr. C. H. Young, I move that the Committee on Suffrage be discharged from further consideration of Proposed Amendment, Print No. 706; that the same be amended as hereon noted, reprinted and recommitted to that Committee.

The President — Without objection that order will be made.

The President — Reports of standing committees. Are there any reports from standing committees?

Mr. S. K. Phillips — I offer the following.

The Secretary — By Mr. S. K. Phillips: Resolved, That Mary E. Cumming be transferred as committee stenographer from the Committee on Taxation to the Committee on Contingent Expenses, and that Helen N. Myers be transferred from the list of general stenographers to the Committee on Taxation, at a salary of \$5 per day; and that Helen F. Dittrich be transferred from the list of general stenographers and assigned as stenographer to Vice-President O'Brien.

The President — Is there objection to the resolution? Without objection the resolution stands agreed to.

Reports of select committees.

Third reading.

Unfinished business in general orders.

Special orders.

General orders. The Secretary will call the calendar.

The President — No matter in general orders being moved, is there any further business before the Convention?

Mr. Wickersham — Mr. President, I move to adjourn.

Mr. Brackett — Mr. President, does my leader really and truly move to adjourn, or to call attention to the situation?

Mr. Wickersham — Not if the gentleman has any matter to bring before the Convention.

Mr. Brackett — I do not have to bring anything up, the order is already made. There is a matter that is to come before the Convention.

Mr. Wickersham — Well, I do not suppose it arises automatically?

Mr. Brackett — That is just it; I think it does.

Mr. Wickersham — Then, Mr. President, I move to indefinitely postpone the matter laid before the Convention.

Mr. Brackett — I am the most agreeable old thing that ever lived. I do not care much whether it is postponed or whether it is not, and if this Convention does not want to consider it at all, I do not care much about that. I supposed that when we agreed that it should be postponed until this morning, the discussion

would come up. I said to my very respected leader that by agreeing that it should come up this morning, it must be understood that the discussion should take place and be disposed of at this time, and I understood him to say that he agreed that that should be so. Now, I am willing to have the discussion now, or I am willing to have it next Tuesday, but I am not willing that either this Convention or any one else should play tag with me much longer. I do not want to be "it" much longer. I am entirely willing if it suits either the convenience or the time of the Convention to put it at any specific time, but I want an agreement, and I want a bond, if it is necessary, that the next time it will be disposed of definitely one way or the other.

Mr. Wickersham — Two weeks ago the gentleman from Saratoga brought before the Convention from the Committee on Legislative Powers two resolutions. Discussion was opened on them, and then the further consideration of them was adjourned until to-day. It is true that a few moments ago I had a colloquy with him regarding them, and I assumed that he was going to move discussion of them this morning. As he did not, I moved to adjourn.

Now, I am perfectly willing that the discussion shall be opened, in order that proper disposition of them shall be made later, and I do not want to be understood as interfering with that if Mr. Brackett wants to proceed with it; but if neither he nor anybody else wants to proceed, then I have what I think is a proper motion to suggest, as to their disposition. I did not hear anybody else arise to continue the discussion; Senator Brackett himself did not rise to open it, and unless there is somewhere in this body a disposition to be heard regarding them, I shall move to indefinitely postpone, and I am inclined to think that that is the proper motion anyhow, Mr. President, because these resolutions refer to a subject which it was indicated when the matter was under discussion two weeks ago are merely abstract propositions. Since then the chairman of the Committee on Legislative Powers has introduced a Proposed Constitutional Amendment which involves the concrete application of these principles, which is in general orders, and which no doubt at some time will be moved for discussion. I do not want to be understood as in any way interfering, or attempting to interfere, which I could not do, with the freedom of debate in any matter properly before this assembly.

Mr. Brackett — Mr. President, I ask the ruling of the Chair as to whether or not the matter which was postponed until this time does or does not come up automatically in the order of business.

The President — The Chair does not think that the situation presents a question for ruling. If any member of the Convention

wishes to call up a resolution postponed from a former day, that is his right.

Mr. Quigg — Mr. President, I call up the resolution. It seems to me that the sensible thing to do is to dispose of it one way or the other. If the Convention does not want an apportionment here, if it does not want the matter in Mr. Brackett's resolution considered, it might as well say so. Now, we have been here a long while, three months, and I notice a general disposition on the part of all members and all committees to postpone everything. I think the reason is that about three-quarters of the Convention would like to see Mr. Wickersham get up, with your approval, and move that the Convention adjourn sine die. I believe that there is a general disposition not to do anything, growing very largely out of the feeble commission that was extended to us by the voters of the State. For myself, I rather sympathize with that feeling; I entertain it myself.

If we are going to do anything we might as well do it. If the Convention does not want an apportionment here it ought to say so. You say it is a sort of empirical question, Mr. Wickersham, that we brought here, and that we are no more entitled to light upon it than any other committee, but still you know that it involves a very great amount of work on the part of this Committee, and the consideration of not only everybody in this Convention, but almost all the Senators and Assemblymen in the State of New York in order for us to bring to this Convention a reasonable proposition, if that is what we are to do. So that there is nothing unreasonable in our asking the advice of the Convention as to whether it wants a Legislature of two Houses, whether it wants an apportionment or not, whether it wants New York city to get a preponderating influence in the State within the next ten years.

Now we might as well face it, and I should think that the sooner that is done the better. I hope you will not proceed with your motion for an indefinite postponement of it. We have got more time for it now than we will have later.

I think most of us Republicans are willing to accept whatever the judgment of those whom we call the leaders of the Convention is, but we ask that you lead us with a nice little cotton thread, and we will gladly go along.

Mr. Brackett — I call up, because I suspect that the last two or three speakers have been entirely out of order, there being nothing before the body — I call up the postponed order that was made of the discussion on the resolution as amended and reported by the Committee on Legislative Organization, and the adverse report by the minority of the Committee on Legislative Organization, which was set for this morning.

I recall very well that the Chair stated the disposition that was made was not a special order, but that consideration of the resolutions and of the reports was postponed until this morning.

If there is any general desire exhibited to have the discussion postponed, I shall make no objection if it is a reasonable time and if it is understood that it is to be at the time named.

I do not believe it is advisable that we should dispose of them now. I agree with all that the member of the Committee, Mr. Quigg, has said on the subject. I do not believe that there is anything gained by throwing the discussion from one day to the other and I do not see how we are to escape a final discussion on the subject.

When I see the state of mind of my brother Nicoll, and some of the other gentlemen from New York on the question of changing or limiting the representation of the city, I feel very sure that we must have a discussion some time, and that it would take no more time, and no more attention, and no more nerve and result in no more breaking of friendship to do it this morning than any other time.

On the other hand, if there is any general exhibition of the wish to postpone it until next Tuesday, and make it at that time, Mr. President, a special order, which will come up automatically on the disposal of the regular order of business, I shall make no objection.

The President — The Chair will say that its view regarding this report is that if it had been made a special order it would have come up automatically. Not being made a special order, but its being postponed until to-day, it may then be called up by any member of the Convention. It has now been called up. Mr. Quigg called up a resolution, which I suppose to be the resolution, or I assumed to be the resolution contained in the report. Mr. Brackett now calls up the report of the Committee, and I shall assume, notwithstanding some difference in phraseology, that both of the gentlemen refer to the same thing.

Mr. Quigg — I think so, sir.

The President — Accordingly, the report of the Committee on Legislative Organization is now before the Convention for its consideration, and the consideration of the Convention will proceed from the point which was — at which it was left from the last day when the report was under consideration.

At that time, Mr. Aiken, from the Committee, asked for the reading of the so-called minority report.

The Chair is of the opinion that the reading of the minority report is the next business in order.

Mr. Westwood — Mr. Aiken moved, if you will permit me to call your attention to the fact, on page 426 of the Record, the

substitution of the report of the minority for the resolution introduced by the Committee.

Mr. Wickersham — And the minority report had then been read.

The President — Had the report been read?

Mr. Wickersham — The report was read.

The President — The Chair was mistaken. The question then before the Convention would be Mr. Aiken's motion to substitute the report of the minority for the report of the majority.

Mr. D. Nicoll — There is no desire on the part of a number of delegates from the city of New York to avoid final discussion on this matter, but there has been some misunderstanding among us as to whether it was certain to come up to-day, and under those circumstances I move that the further consideration of Mr. Aiken's motion be postponed until Tuesday, the 29th, or until Wednesday, June 30th. And that it be made a special order.

Mr. Low — Mr. President, I was going to suggest that it should be Wednesday, instead of Tuesday, because Tuesday is a very short day.

Mr. D. Nicoll — I accept the amendment.

Mr. Wickersham — May I make this suggestion? The report which reports two resolutions is open to the objection which was made by Mr. Stimson the day that we were here, of presenting a mere abstract proposition.

Since the report was made to this body and since the adjournment of the discussion two weeks ago, the Committee on Legislative Organization has reported a Proposed Constitutional Amendment, Print No. 697, which is in general orders, and which presents in a concrete form, in its application to the Constitution, all of the questions, as I understand it, in which Mr. Nicoll and the New York members and the body in general are interested.

Now, my suggestion is this, that after that report was made, the Committee on Legislative Organization would not press the further consideration of this abstract proposition which only inferentially bears upon the question under consideration, and which, as a matter of fact, Senator Brackett in introducing disclaimed had any relation whatever to the question of apportionment, the question in which so much interest is lodged. And therefore my suggestion is, instead of proceeding to the discussion of these abstract problems, that we should take up in general orders the discussion of the Proposed Constitutional Amendments. For that reason my suggestion, my motion, which I intimated rather than made a moment ago, was not to postpone to some day, because I had assumed we were going to meet the discussion to-day, whatever we were confronted with, and to dismiss indefinitely the

discussion of these abstract propositions, in order to take up in concrete form the amendments proposed.

Mr. R. B. Smith — There is such evident misapprehension as to the situation upon the questions reported by this Committee and upon the Proposed Amendment in general orders, that it seems to me that it is time to make at least a statement of the facts. The Quigg resolution which was referred by the Convention to our Committee involved two propositions: In the first place, should there be one House or two; in the second place, should the members of both Houses be elected from districts or be elected at large, or a combination of both. Now that is all.

Mr. J. G. Saxe — That is not the proposition which was referred to your Committee. You are referring to your first proposition, but two other distinct propositions were referred to the Committee, making three in all, and when the report was made, you reported out the first proposition, you killed the other two, and you brought out a brand new proposition which you have just referred to.

Mr. R. B. Smith — I will correct my statement by saying that those two propositions were involved in the resolution which was referred to the Committee. Now, if, as has been suggested, this resolution was improper procedure, then it was the duty of this Convention, or any delegate who thought so, to have objected to it, laid it upon the table, or postponed its consideration indefinitely, instead of sending it to our Committee, and asking us, inferentially, for our opinion upon that subject. It came to our Committee and we reported it, as we were bound to do, with our opinion. You have got our opinion. If it is worth anything, all right; and if it is not, forget it.

Now, further, to pass the Quigg resolution, in my judgment, is a positive statement. The adverse report a negative statement of what is stated positively in the resolution. That is all, except each of these four amendments involves some change in detail.

Mr. Wickersham — That report was made two days after the original report.

Mr. R. B. Smith — Yes. If you will permit me to say so, I moved that it be reported, because I had heard after the original resolution had been reported, that this technical objection was to be made, and I thought I would get the proposition before this House in correct parliamentary form, to which there could be no objection.

Now, the subject-matter involved in these Proposed Amendments is simply, shall there be one House or two of the Legislature, shall the members of those Houses be elected from districts, or shall they be elected part from districts, and part at large?

That is all. There is not a question of reapportionment involved in it, and you cannot find one with a microscope. Now, the statement has been made or suggested that the amendment in general orders involves the same subject. It does not involve either of those subjects in the slightest degree. The amendment in general orders involves three propositions: In the first place, Shall the Constitution provide that there shall be an enumeration every five years, or every ten; and, secondly, Shall there be a legislative apportionment every ten years, or in 1926; thirdly, Shall the method of making a legislative apportionment be tied up with all of the mathematical restrictions which make an apportionment so difficult that it is almost impossible, if indeed possible, to prevent every one of them being reviewed by the courts? The next proposition is, Shall the city of New York have more than 50 per cent. of the members of both Houses? Now, those are the questions that are involved in the amendment which is on general orders, and nothing else.

Mr. Wagner — Does not the latter proposition involve the question as to whether there shall be a unicameral or bicameral body?

Mr. R. B. Smith — Why, certainly.

Mr. Wagner — That is the question involved in this academic resolution, too, isn't it?

Mr. R. B. Smith — That question is so foreign that no one but Senator Wagner would ever think it was involved at all.

Mr. Tanner — Does not your statement in Printed No. 697, reported out, that there shall be Senate districts, each containing as nearly as may be an equal number of inhabitants, preclude the idea of a Senator-at-large?

Mr. R. B. Smith — I assume so.

Mr. Tanner — Then, in the second place, by introducing and reporting this amendment, you have raised both questions of a unicameral Legislature and a Senator-at-large?

Mr. R. B. Smith — Yes.

Mr. Tanner — What is the use of your resolution? How many ways do you want to discuss it?

Mr. R. B. Smith — Because if you act upon this amendment which is on general orders, you have to act upon all questions, don't you? I am trying to get one thing disposed of at a time.

Mr. Tanner — Why did not you report it that way?

Mr. R. B. Smith — We did report it. We have got the proposition of a unicameral or bicameral Legislature here squarely, and we are asking that that proposition be first settled; and, of course, if it be settled inconsistent with the provisions of the other, then the other falls to the ground.

Mr. Stimson — Does not your amendment also provide that not more than one-half of the members of the Assembly shall be chosen from the counties, and does not it, therefore, necessarily provide for two Houses of the Legislature?

Mr. R. B. Smith — Inferentially, it does. On the other hand, if this amendment should be defeated, does that necessarily involve the fact that you cannot have but one House of the Legislature?

The purpose of the Committee was to have disposed of in an orderly way the subject, Shall there be one or two Houses and how shall they be elected. The general order in my judgment should go back to the Committee and if I ever have a chance I want to send it back or move to recommit it because it involves certain details which were only yesterday discussed in the Committee, Mr. Betts' resolution and some others and I think those are collateral matters to be more thoroughly considered by the Committee.

As I say, it does seem as if the main proposition of one or two Houses is simple enough so that we may dispose of that and get it out of the way.

Mr. Wickersham — I press my motion for the indefinite postponement of the consideration of this resolution.

Mr. Austin — It seems to me that we are wasting a tremendous amount of time, not in endeavoring to find out what we are going to get at but how and when we are going to get at it.

In spite of the statement of my friend from Syracuse I am personally convinced that all the questions involved in this discussion will be brought up by the amendment in general orders. I don't want to take any part in playing tag with the gentleman from Saratoga or in chloroforming the gentleman from Columbia, therefore I want to say that upon Tuesday next, or if it is the preference of this Convention, on Wednesday next, I propose to move my two amendments which are on general orders calendar, and if the gentleman from Saratoga desires at that time to also move the amendment which the Committee has upon general orders calendar, we shall automatically go into general orders and this matter must come up for discussion. I simply wish to make that announcement so that there cannot be any question about having an opportunity to discuss this matter at an early date if the gentleman from Saratoga wishes to move his proposal when I move mine.

Mr. Bernstein — It seems to me that there are erroneous impressions about this Chamber with regard to the purport of the

resolution that has been reported to this House from the Committee on Legislative Organization.

It does not involve an abstract question nor does it involve any consideration of a suggestion from the Committee on Legislative Organization. What it does involve is a report of a committee. Mr. Quigg some time ago offered a resolution which embodied the principle of the resolution that has since been reported. That resolution was properly referred to the Committee on Legislative Organization. It was accepted by the Committee and reported in amended form. It comes up now on the report of the Committee and should be considered as such. It has not anything to do with any Proposed Amendments, either those that have been reported adversely or that which has been reported by the Committee on Legislative Organization and which is on the calendar of general orders. When those questions come up they will come up on the Proposed Amendments. The question now is on the report of a committee based upon a resolution that had theretofore been referred to that committee for report. Now there is no way of dodging the consideration of the report of that committee by talking of considering these Proposed Amendments, or these reports on Proposed Amendments, and I suggest that the better way would be to dispose of this resolution. We have already wasted more time on the question as to how, when and where the report should be considered than could possibly have been spent in considering the report on its merits.

Mr. Wagner — I hope that the motion made by Delegate Wickersham will prevail, and for two reasons: First, that the discussion of these resolutions is merely an academic discussion in this body, obligating nobody even after the resolution is adopted, and if we are to begin to proceed by this method of having a committee ask instruction from the whole Convention and then subsequently bring in a Proposed Amendment, we are going to be here very much longer than we ought to be.

I somewhat agree with Delegate Quigg when he said that perhaps the people would be satisfied if we would adjourn at this time. I differ with him as to the reason for that general sentiment. The reason I do not believe is that the people do not want a great many things but they have come to believe that they cannot expect very much from this body. I hope that they are mistaken in that conclusion.

Now the second reason why I hope this resolution will be indefinitely postponed is that the question which is now in general orders will squarely and fairly and honestly bring the consideration of all of these subjects in the proper manner before this Convention in the form of a substantive Proposed Amendment to

the Constitution and if the Committee had proposed originally, instead of a resolution, that the Legislature shall be composed of two bodies as a Proposed Amendment to the Constitution we would then have that question squarely before us. The last report of the Committee which is now a subject-matter in general orders to be discussed raises all the questions involved in these resolutions; the two-House proposition, the district proposition, and, lastly in a measure the question of reapportionment, and those of us who are from New York particularly who have been interested and who are interested in these limitation provisions which we have in the present Constitution and about which we want to say something in response to a great sentiment in the city of New York, want to meet this question squarely and fairly at any time, to-day or any other day, and not by disposing of these academic questions which mean nothing. As a result of the motion made by General Wickersham we will on next Tuesday or Wednesday fairly and squarely meet the propositions as they ought to be met and for that reason I am in hearty sympathy with the resolution made by Mr. Wickersham.

Mr. Brackett - - Mr. President, when I consider the circumstances under which the Legislature passed the bill which called this Convention together, when I consider the gentlemen who initiated and put that legislation through, and when I consider the purpose that they had in mind when they put it through I am reminded of the man who was convicted of killing his father and mother under circumstances of peculiar atrocity, who said that he did hope the judge would not be hard on a poor orphan.

I am so used to the tremolo in the voice of my brother Wagner and to the indignation with which he can decry anything that is suggested by Republicans that really and truly it does not tear my heart strings, I think, as much as it may those of some of you gentlemen who are not so familiar with the tremolo.

Let us see where we stand first, Mr. President, with respect to the procedure: We have the two resolutions that were reported by the Committee, and the Quigg resolution as amended. I assume that this Convention acted in good faith and for the purpose of getting a report on those resolutions when it referred them to the Committee. If it did not want the report and judgment of the Committee on those resolutions, then it was an idle ceremony to have them referred to the Committee. The Committee, in good faith, believing that the Convention meant just what it said when it referred to that Committee such resolution introduced by Brother Quigg, proceeded to give its best judgment to the questions involved therein and it thereupon reported the Quigg resolution amended so as to recommend that there shall be but one

House and that the members of the Legislature shall be elected by districts.

Now if the Convention does not want to agree with that report nobody is harmed. It is not disagreeable to the nasal appendages of the Committee if it does not so agree because we will then report something else perhaps that you do want. But there is not in this resolution reported anything that is the slightest suspicion of anything relating to reapportionment and there is not in this resolution anything relating to limitations on the city of New York's representation in the Legislature. It simply and truly only passes on two basic questions: Shall there be one or two Houses, and if two Houses shall they be elected by districts, Assembly districts, Senate districts or how shall they be elected. Nobody on earth can spell out properly anything involved in these resolutions relating to any question of reapportionment and if this body shall pass on this resolution I shall not ask them to pass anything more.

Let me remind the gentleman from New York, Mr. Wagner, that the report of a committee on a Proposed Constitutional Amendment is not in this body but in general orders, and cannot be debated here to-day unless the general orders are discharged. The question does not come up. The only thing involved is the subject-matter of the two resolutions reported by the Committee. Behind that are the different reports on Mr. Schurman's proposition to have eighteen or twenty-four Senators, six of whom shall be elected at large, Senator McKinney's proposition that there shall be but one House; the proposition of Mr. Kirk, I think, involving the question simply as to whether there shall be one House, and one other by Mr. Bernstein, I think. These adverse reports are strongly cognate to the questions involved in them. The Proposed Amendment by Mr. R. B. Smith is in Committee of the Whole and is not under discussion here at all.

I bear in mind, however, that we are still on Mr. Wickersham's motion to postpone, as to which I am entirely willing to conform to the convenience and judgment of the members of the body, only I don't want anybody to vote on the proposition thinking he is getting rid of the proposition by simply putting it over from day to day. If the Convention is ready here and now to vote on the resolution as reported nothing further need be voted on, at all; but shall we have one House or two and shall the members be elected by districts? I cannot see how it shall involve other discussion, even on the part of so fruitful and fecund a debater as Senator Wagner from the Sixteenth district.

Mr. J. L. O'Brian — Mr. President, I think there has been some vagueness in the statements of facts as to the procedure here,

Personally I sincerely hope that the resolution of the chairman of the Judiciary Committee will prevail. And I may say right here that, representing, I think, the views of the delegates from Erie county, the largest upstate county, the majority of whom, nearly all of whom are strongly opposed to any reapportionment being undertaken by districts in this Convention, I want to say that we feel differently than does the delegate from Saratoga and the delegate, Mr. Quigg, in their view of the work and the value of the work to be done by this Convention. We don't regard ourselves in that part of the State as coming here with any feeble commission or on any feeble mission. We take a more serious view of the functions of this Convention.

Now as to the report made — Delegate Quigg offered a resolution in three parts, first, that the Legislature should be composed of two Houses as at present; second, that it was undesirable that the membership of either House should be increased; that the holding of annual sessions is expedient. That was referred for consideration to the Committee of which the delegate from Saratoga has the honor to be chairman.

Instead of reporting out that resolution, or instead of reporting a Constitutional Amendment embodying that view, that Committee took the extraordinary course of seeking the opinion of this House in advance of its action, by reporting first, that it was undesirable — or, first, “that the Legislature shall be composed of a Senate and Assembly; second, that the members of the Senate shall be elected from Senate districts, and the members of the Assembly be elected from Assembly districts.”

Mr. Wiggins — Do I understand you to say in your judgment that the resolution simply called for the opinion of this Convention?

Mr. J. L. O'Brian — I have not finished what I was about to say.

Mr. Wiggins — I thought I understood you to say that it simply called for an opinion.

Mr. J. L. O'Brian — I think, if you will just be patient, you will hear my opinion. The report accompanying this resolution and explaining the purpose of this resolution stated that “it is very desirable, if indeed it is not necessary, that the Committee shall have the judgment of the Convention upon the proposition involved in the resolution so reported,” and it further stated, “If such judgment is not given, settling the question as to whether the Legislature shall hereafter consist of one or of two Houses, and there should be a disagreement with the report of the Committee,” and so forth, “the entire subsequent work of this Committee, with reference to the number of Senators and Assemblymen, and the

districts into which the State shall be divided, for the purpose of electing such Senators and Assemblymen, would go for naught."

"Inasmuch as such work will be enormous," the report further continues, "It is the practically unanimous consensus of the Committee that the points embodied in the resolution so reported should be first definitely settled by action of the Convention."

In other words, the Convention was invited to express its opinion on two abstract propositions. No Proposed Constitutional Amendment was reported for our consideration. Criticism was made of that procedure by the delegate from New York, Mr. Wickersham, and the Committee then properly fulfilling its duty brought in its recommendation in the form of a Proposed Constitutional Amendment, No. 697, and in that Proposed Constitutional Amendment, which is the proper way to bring a matter of this type before this House, they recommend their views on the subject of how an apportionment shall be made, that resolution assuming as a premise that there shall be two Houses, and assuming as a second premise that the Assemblymen shall be elected from the Assembly districts and the Senators from Senatorial districts.

So that the two academic propositions on which our advice was asked have now been considered by the Committee, and they have reported to us their opinion on that subject embodied in this resolution.

Now, I desire that this purely academic discussion shall be done away with. I am prepared, and most of the members of this House, if I gauge their views, are prepared to discuss the Amendment No. 697, and face the question of whether this House should embark on any apportionment by districts.

We are ready for that question, but we don't want that question muddled and confused by any consideration of purely academic matters, and inasmuch as the Proposed Amendment when discussed will —

Mr. Quigg — When the gentleman speaks of "We are ready for that question", and "We are ready to vote on this", and "We don't want it to be complicated with anything else," will the gentleman be good enough to inform me whom he means by "we"?

Mr. J. L. O'Brian — I think, sir, that I previously stated that I thought I spoke, or expressed the view of the majority of the Convention, and by that I mean the members with whom I have talked.

Mr. Quigg — I see.

Mr. J. L. O'Brian — I certainly have no intention of speaking for the delegate, Mr. Quigg.

Mr. Quigg — I thank you,

Mr. J. L. O'Brian — So that, Mr. President, in using the word "we," I think I preceded that by stating that I thought I expressed the view of the most of this House. We are not, "we," the gentlemen who hold the same view that I hold — we are not trying to put off the discussion of the question of apportionment.

We are ready to meet that, but I desire, and what those gentlemen who agree with me desire, if I may make the matter perfectly clear, is that that question shall come up fairly and squarely, untrammelled by other considerations, and not confused by other issues, and it is for that reason that I support the resolution offered by the chairman of the Judiciary Committee, that the discussion of these purely academic resolutions be indefinitely postponed.

Mr. Stimson — I sincerely hope that this resolution of the chairman of the Judiciary Committee will prevail. I sincerely indorse the view which has been just stated by Mr. J. L. O'Brian. I think we are here for a far more important purpose than would apparently be the opinion of my brother Quigg.

I am one of those who believe that this Convention has an important duty, and is meeting at a time when that duty can be of the utmost importance to this State.

We meet at a time following a great protest against the evils that have taken place in the governments of the different States, and which have provoked efforts of an ill-judged character to meet them; but the evils were none the less real. And now, this Convention coming in the greatest State in the Union falls at a time when the people of this State and the people of the country, as I believe, expect a constructive solution to be found of evils which have been recognized.

Now, it seems to me that it was the utmost short-sightedness to interject into the Convention meeting at this time the local, personal and partisan feeling that necessarily attends upon any reapportionment of the State.

It has been stated that this was the best tribunal that could make a reapportionment. It seems to me that that wholly fails to take notice of the fact that the fundamental law of this State provides rules and safeguards which one of the speakers here to-day has shown a rather light appreciation of in his desire to remove them — which would surround the action of any Legislature in making an apportionment, and would protect the people of the State against abuse by such action.

In other words, any Legislature reapportioning the State hereafter necessarily has to conduct its battles under the Marquis of Queensberry rules which exist in the present Constitution.

That is not the case with this body. The uproar, the contest, the feeling, which would therefore come into a Constitutional

Convention, not bound by any such rules, are sure to be more bitter, more unrestrained than would necessarily attend the solution of the same problems in the Legislature.

We have a concrete example in this very amendment which is on the calendar of general orders when there is sought to be wiped out of the protection which would surround a legislative apportionment, the restriction upon the county lines. In other words, a reapportionment, if we should undertake it, under the terms of this amendment, would cause internecine trouble, not only between the members of different counties, in the selection of Senate districts, but it would carry feeling into every township and every village of the State. For all of these reasons, I sincerely hope that this motion will be disposed of favorably by an indefinite postponement of these academic questions, and that we shall then proceed at once and promptly to dispose of the question brought up by the amendment, by going into general orders, and disposing of it there.

Mr. Unger — After having listened to that delightful raconteur, Senator Brackett, bubbling over with the same spirit that effervesces in Saratoga Vichy, let me say that in all the apportionment discussion this morning, one fact stands out like Mars at perihelion, clear, distinct and startlingly bright. The Proposed Amendment submitted by the Committee on Legislative Organization does conclusively and finally, and without any question, cover everything that we can discuss and can consider; and therefore, moving the previous question, I may say that I do believe it is the sentiment of this Convention that as the Quigg is bent so will the Root not be inclined.

Mr. J. S. Phillips — Do I understand the gentleman from New York to move the previous question? He said he was going to, but I do not think that he did. I simply want to make an inquiry before that question is put, whether the motion made by the gentleman from New York, Mr. Wickersham, asking that consideration of the resolutions reported by the Committee on Legislative Powers also be postponed includes the postponement of consideration of the adverse reports that were made by that Committee?

Mr. Wickersham — Mr. President, I do not understand that consideration of the adverse reports is before the Convention, or has been moved. We have been proceeding in the discussion over these resolutions and my motion was to indefinitely postpone further consideration of those resolutions, and on that I move the previous question.

Mr. Quigg — Mr. President, did not the Chair state that the question before the House was on the minority report? I would like to know what is the question before the House.

The President — The Chair would state its understanding of the situation. The only subject before the House is the report of the Committee on Legislative Organization upon the propositions reported by the Committee, in response to the reference of the resolutions of the gentleman from Columbia, Mr. Quigg. Mr. Aiken had moved to substitute for the report of the Committee the minority report. That was the question before the House. The adverse reports of the Committee on Legislative Organization of the Proposed Amendments, relating to a unicameral Legislature and relating to the method of electing members of the Legislature were not before this Convention, and no motion has been made which relates to them.

The gentleman from New York, Mr. Wickersham, has moved to indefinitely postpone consideration of the Committee's report. That postponement would carry with it the postponement of the motion of Mr. Aiken to substitute the minority report for the majority report. Several gentlemen have moved the previous question upon Mr. Wickersham's motion to indefinitely postpone. The question is, Shall the main question now be put?

Mr. Sheehan — I rise to a question of legislative inquiry.

The President — The gentleman will state the inquiry.

Mr. Sheehan — Assuming that the motion of General Wickersham prevails, do I understand that Bill No. 697, now in the Committee of the Whole, reported by the Committee on the Legislature and Its Organization, still remains in the Committee of the Whole? Is there any doubt about whether that measure still remains in the Committee of the Whole, if General Wickersham's motion prevails?

The President — It is the understanding of the Chair, and there seems to be no doubt about it, that the Proposed Amendment to the Constitution, reported by the Committee on Legislative Organization, which has been referred to the Committee of the Whole, remains in general orders, unaffected by any action which may be taken upon the pending subject.

Mr. Brackett — May I ask a single question before the gentleman proceeds, and that is, Does the present pending motion relate only to resolutions reported by the Committee and not to the other adverse reports?

Mr. Wickersham — That is correct.

The President — The Chair has no doubt upon that question. The Chair supposed that it had stated that — it intended to — that the postponement of these general propositions does not in any way affect the consideration of the adverse reports upon the concrete propositions to amend the Constitution, in regard to the number of chambers and the method of election.

The President — The Secretary has called attention to the motion of the gentleman from New York, Mr. D. Nicoll, to postpone consideration until the 30th.

Mr. D. Nicoll — I have withdrawn that for the moment.

The President — That is withdrawn. The question is, shall the main question upon Mr. Wickersham's motion to postpone now be put? All in favor will say Aye, contrary No. The motion is agreed to. The question is upon the motion of Mr. Wickersham to indefinitely postpone consideration of the Committee report on the general propositions which have been read. All in favor of the motion say Aye, contrary No. The Ayes appear to have it; the Ayes have it, and consideration of the report is indefinitely postponed.

Mr. Brackett — Mr. President, I now call up the adverse report, which was postponed until the present time.

Mr. Wickersham — Mr. President, I take the point of order that the adverse reports are not in order and I move that this House resolve itself into Committee of the Whole for the purpose of considering No. 697.

Mr. Brackett — I want to call the attention of the Chair to the fact that the adverse reports were made a postponed order to-day, precisely as were the resolutions, and, being called up, they are here for action.

The President — The Chair is of the opinion that the adverse reports having been postponed until to-day can properly be brought before the Convention, one at a time, by any member. The gentleman from Saratoga, Mr. Brackett, has called up consideration of the first adverse report.

The President — The Secretary will report the adverse report.

The Secretary — Mr. Brackett, from the Committee on Legislative Organization, to which was referred Proposed Amendment introduced by Mr. Schurman, No. 279, Introductory No. 276, entitled: "Proposed Constitutional Amendment, to amend Article III of the Constitution, in relation to the composition of the Senate and the terms of its members, and Section 1 of Article XIV, in relation to Constitutional Amendments," reported adversely thereto.

Mr. A. E. Smith — Mr. President, a question of information.

The President — The gentleman will state the question.

Mr. A. E. Smith — I would like to inquire from the Chair what order of business we are now in?

The President — The regular order of business has been completed, but the Chair is of the opinion that it is competent to call up the reports which were postponed until to-day.

Mr. Wickersham — Mr. President, I move that consideration

of this report be referred to the Committee of the Whole, to be considered in connection with No. 697, which is already on general orders.

The President — Is the Convention ready for the question?

Mr. Brackett — A point of order, Mr. President, that under the rules an adverse report does not go to the Committee of the Whole but goes to the Convention.

Mr. Wickersham — That is true, without a motion to send it to the Committee of the Whole, which I understand the Convention has full power to do.

Mr. Brackett — But this has been brought up under the regular order of procedure. I purpose, as soon as this is over, to move to discharge the Committee of the Whole from consideration of Bill No. 697, and refer it back to the Committee on Legislative Organization.

The President — The Chair is of the opinion that any matter may be committed to the Committee of the Whole by vote of the Convention. An adverse report which has been called up does not go automatically into the Committee of the Whole, but can be considered in the Convention, and it is customary to consider such reports in the Convention. It may, however, be referred to the Committee of the Whole, upon motion, as may any other matter.

The question is upon the motion to refer the adverse report to the Committee of the Whole. Is the Convention ready for the question?

The President — All in favor of the motion will say Aye, contrary No. The Ayes appear to have it, the Ayes have it, and the report is referred to the Committee of the Whole, and takes its place on general orders.

Mr. Brackett — I move to discharge the Committee of the Whole from further consideration of Bill No. 697 — Proposed Amendment — and that the same be referred back to the Committee on Legislative Organization.

Mr. Wickersham — I move to amend that motion by adding "with instructions to report the measure in a form which will not involve a reapportionment of the Senate and Assembly districts by this Convention," and I ask that the question, as so amended, lie upon the table until Tuesday next.

Mr. Wagner — I raise the point of order that a motion to discharge the Committee of the Whole is not now in order.

The President — The Chair does not at this moment see the reason why it cannot be done.

Mr. Wagner — A motion to discharge a committee can only be made in the order of business of motions and resolutions or

reports of committees. As I understand the Chair, we have passed both those orders of business. Secondly, the motion itself involves the suspension of one of the rules of the Convention, namely, that a bill should be considered by the Committee of the Whole, after report, which suspension of the rule cannot be made except upon one day's notice.

The President — The Chair is of the opinion that the order of business of the Convention having been completed, and the orders of notices, motions and resolutions, and the reports of standing committees having been passed, the motion to discharge the Committee of the Whole cannot be made without leave of the House. But the Chair does not consider that the motion to discharge the Committee of the Whole and recommit is any violation of the rule which requires reports of Constitutional Amendments to be considered in Committee of the Whole, because, having been recommitted, the Proposed Amendment is still subject to the requirement that it shall be considered in the Committee of the Whole before it can be put upon the order of third reading.

Mr. Brackett — Will the Chair permit me to call its attention to the fact that while the general proposition stated by the gentleman from New York, Senator Wagner, that a motion to discharge the Committee of the Whole can only be in reports of committees or in motions and resolutions, as the Chair has concurred, it is modified in this particular by this fact, that this is a continuation of the report of a committee; in other words it is made a special order, or, in the language of the Chair, a postponed order to-day from the time when the report of the Committee did come up, and therefore that we are technically in the report of the Committee, so that we have a right to consider the motion.

Mr. Wickersham — Mr. President, if I may observe, the Senator's motion was predicated not upon the report of the Committee, but upon the Proposed Amendment to the Constitution, which is in general orders, like any other amendment to the Constitution in general orders. His motion, which comes as a new motion, is to discharge the Committee of the Whole from further consideration of that amendment, and to recommit it, to which I have moved an amendment of recommitment with instructions. Then I have suggested that consideration of that amendment which will call forth debate be postponed.

Mr. Wagner — Mr. President, do I understand the Chair to sustain my point of order?

The President — The Chair feels obliged to sustain the point of order, although the relation between the particular amendment to which the motion relates, and the matter which is before the House, seems to be before us, nevertheless the motion does relate to

an entirely different Constitutional Amendment, a separate and distinct amendment, which is not before the House. We are in the habit, in the convenient despatch of business, of proceeding without very rigid adherence to the order of business, and a large part of the business of such a body is done practically by unanimous consent, so far as the order of business is concerned. Nevertheless, the rule prescribing the order of business is intended as a protection to all the members of the Convention, and they are entitled to see that no motion shall be made or resolution introduced, except at the time when they are entitled to expect them, if at all, in accordance with the rules. I think the Chair is bound, therefore, to say that the resolution cannot be entertained. The resolution would necessarily have given rise to debate, being an independent resolution, and had to stand over until another legislative day.

The President — The Chair desires to put the question as to whether there is objection to the motion being made out of order.

Mr. Wagner — I made the objection; I raised the point of order.

The President — That objection being made, the Chair is bound to sustain the objection.

Mr. Westwood — That adverse report having been disposed of by the ruling of the President, I desire to move now that the Convention resolve itself into a Committee of the Whole for the consideration of General Order No. 5, Printed No. 697.

Mr. Wickersham — Mr. President, I call the attention of the gentleman to the fact that I have already made that motion.

Mr. Westwood — The chairman of the Judiciary Committee did make some such motion, but it depended upon the motion of Senator Brackett.

Mr. Wickersham — Mr. Brackett's motion followed and was because of the motion which I made to go into the Committee of the Whole to consider No. 697.

Mr. Westwood — As I understand the parliamentary situation, Senator Brackett called up the adverse report and while he was calling that up, Mr. Wickersham, perhaps not appreciating that Mr. Brackett had not yielded the floor, made a motion to go into the Committee of the Whole.

Mr. Wickersham — If I may explain, the gentleman is somewhat in error. Mr. Brackett called up the adverse report on the first of his bills and I moved the House that the report be referred to the Committee of the Whole, which motion was put and carried, whereupon Mr. Brackett, having previously stated that if that report or that motion were carried, he should make

a motion to discharge the Committee of the Whole from consideration of No. 697, made that motion. Thereupon, I moved to amend and Senator Wagner raised the point of order which the Chair sustained. The question now lies upon my original motion to go into the Committee of the Whole to consider No. 697.

Mr. Westwood — Do I understand that there is a motion pending that we go into the Committee of the Whole?

Mr. Wickersham — Yes.

Mr. D. Nicoll — Mr. President, I want to move an amendment to this motion now pending, that we go into the Committee of the Whole, that further consideration of this amendment be postponed until Wednesday, the 30th day of June, and be made a special order.

Mr. Westwood — That leads to what I wanted to say. I do not care under what head I say it. I concur with the chairman of the Committee on State Finance that this body is ready to consider this question now. It has, I think, been fairly understood by most every one — there may be certain few exceptions — that this whole question of a unicameral House, apportionment, and the like, was to be debated fully and considered by this Convention to-day, as witness of which fact I call the attention of the body to the attendance here to-day, which is larger, I venture to say, than at any moment of the sittings of the Convention, since the night on which the committees were announced. They are here, I believe, to debate this question. They are here, I believe, to vote upon this question as to whether or not the Convention or the Legislature shall reapportion, and it were then idle that the day be lost and that the work of the Convention be postponed nearly a week. I hope, therefore, that the motion to postpone made by Mr. D. Nicoll will not prevail, and that we may meet this question fairly and meet it now.

Mr. A. E. Smith — The discussion which has lasted for considerably over an hour clearly shows to the Convention that when you get started on the wrong track, the longer you keep at it the farther you are into it, and the harder it is to get back. Everything that has been said here since the moment the chairman of the Judiciary Committee moved to adjourn has all been out of order and has practically been proceeding by the unanimous consent of the Convention. Now, Rule 3 clearly defines the order of business of the Convention. The resolution by Mr. Quigg and the proposals to amend the Constitution are the report of the Committee on Organization of the Legislature. They were made some time ago by this Committee, and they were postponed for consideration until to-day. They should have come up under the reports of standing committees.

Mr. Brackett — The resolution provided that it should be taken up after the regular order of business.

Mr. A. E. Smith — Was that contained in the motion, after the regular order? If that is so, they should have been taken up after the regular order, but the argument was started after the motion to adjourn was made. I never heard the motion withdrawn, and, really, the pending question here is the motion to adjourn until to-morrow morning.

The President — The Chair understands that the motion to adjourn was withheld by the mover for the purpose of allowing some gentleman to propose or suggest further business. Of course, if the Chair was mistaken in that, all of this business has been out of order, except by unanimous consent. The Chair understood Mr. Wickersham to withhold his motion to adjourn; that was the Chair's understanding.

Mr. Wickersham — I do not know that I made myself clear, but my motion is that this body now resolve itself into the Committee of the Whole, for the purpose of considering No. 697.

Mr. Brackett — Mr. President, I rise to the point of order, that having passed the order of general business, the motion is not in order.

The President — The Chair will be obliged to apply to the motion made by Mr. Wickersham the same ruling which was made on the motion made by the gentleman from Saratoga. Neither of those motions can be entertained in view of the order of business.

Mr. Wagner — Mr. President, I wanted to suggest to the gentleman from Saratoga, who is always accommodating, though sometimes on the other side of the proposition from me, whether or not he could not say, especially to the New York members interested in this question, what day — or if I may inquire of the leader what day this question is apt to come up, so that we may be sure to be present and present to the other delegates our views about this question?

Mr. Wickersham — Mr. President, I might answer the question of the delegate. Under the ruling of the Chair, the question must come up on the next legislative day. Of course, if it will be an accommodation to members, I am perfectly willing to have the understanding that we bring it up on Wednesday instead of Tuesday.

Mr. Wagner — Mr. President, I understood the ruling of the Chair not to be that this motion must come up on the next legislative day, but, your motion being out of order, you would have to wait until another legislative day in order that you may be in order.

Mr. Wickersham — Then I will ask unanimous consent for a special order for Wednesday next for consideration of the question on No. 697, and Senator Brackett's motions regarding it, as amended by me, and upon the adverse report which was referred to the Committee of the Whole.

Mr. Wagner — Mr. President, that is rather confusing. Delegate Wickersham proposes to make a special order in general orders of a motion to recommit a bill or a Proposed Amendment. Now, that motion cannot be made in the Committee of the Whole, or considered in the Committee of the Whole. I am opposed to its recommittal.

Mr. Sheehan — It seems to me that the orderly method of disposing of this question now, so that people may be prepared to discuss the question when it comes up, is to set for a certain day Bill No. 697 in the Committee of the Whole, and when we get into the Committee of the Whole on that proposition, everything that is germane to it may be offered by way of amendment, and the whole subject may be open for discussion.

Mr. Wickersham — Mr. President, the delegate, I think, overlooks the fact that Mr. Brackett has made a motion to discharge — Mr. Brackett has made a motion in the Convention to discharge the Committee of the Whole from the consideration of that bill; that motion, of course, must be disposed of in the Convention.

Mr. Wagner — No, it was declared out of order.

The President — The gentleman from New York asks unanimous consent for a special order which will apply to the adverse report already referred to the Committee of the Whole and also to Mr. Brackett's motion.

The Chair is of the opinion that no unanimous consent can be applied to those two subjects. Mr. Brackett's motion is not made, and the Chair was obliged to rule that it could not be made after the order of business had been passed.

The adverse report already referred to the Committee of the Whole will be a subject for consideration whenever the Convention goes into the Committee of the Whole. It cannot be made a special order in the Convention.

Mr. J. G. Saxe — I want to suggest this, to see if we cannot dispose of this whole question by an understanding between Delegate Wickersham, Delegate Brackett and the New York delegates, that when we go into general orders next Wednesday, this particular bill will be taken up and it will not be taken up before. If they will give us that assurance, we can now adjourn and when we come here on Wednesday next and go into general orders we can take up that measure in the regular order without requiring a special order.

Mr. Brackett — Mr. President, I remind the gentleman from New York that the control of the bill in general orders is with the introducer, and I shall not move it before, I assure the gentleman from New York. If it will promote the convenience of the gentleman from New York, whose patriotic eloquence on the question of representation in New York city I like to hear — I assure him that I will not move it before Wednesday.

Mr. Wagner — I am going to disappoint you on this question by not being patriotic.

Mr. Brackett — I am glad you are going to give us oil instead of vitriol.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned to meet Friday morning, June 25, 1915, at 10 o'clock.

Whereupon, at 11:40 a. m., the Convention adjourned to meet Friday, June 25, 1915, at 10 a. m.

FRIDAY, JUNE 25, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. O Lord, our God, Thou who are the framer of our bodies and the Father of our spirits and the fountain of all that is pure and holy and strong, we thank Thee for the life Thou hast given us to live in this world, and we ask that Thou wilt make us strong in body, that we may do our work in life cheerfully and well; and strong in mind, that we may think without confusion, clearly and reach a just and adequate solution of the problems that press upon us. And wilt Thou make us strong in spirit, full of the courage that holds strain and sacrifice cheap when they lie in the path of duty; and strong in heart, that we may be true and loyal friends, loving our neighbors as ourselves and loving Thee, our God, with all our heart and soul and strength. And wilt Thou make us strong in the faith that believes in the supremacy of truth and in the victory of right over wrong, so that we may be earnest coworkers with Thee in furthering all those influences that make for the expansion and establishment of truth and righteousness, peace and good will among men. Graciously hear these our prayers and answer them in Thy wisdom, O Lord, our strength and our salvation, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal stands approved as printed.

Presentation of petitions and memorials.

Mr. Brackett — May I have unanimous consent for a moment to call attention to the ceremonies to-morrow at Saratoga and to ask that, if there are any members in the House who purpose to go, within the next ten minutes they will send their names to the Clerk in order that proper transportation may be provided? The train leaves in the morning at half-past 8. Tickets will be left with the Clerk of the Convention for the transportation of any member who wishes to go, and his wife. The unveiling is to be at half-past 10. Luncheon will be served at the United States Hotel and after the luncheon it is hoped that members can see the Reservation Park which has been laid out by the State. I make this announcement now, urging upon the members, if any one expects to go, that he at once send his name in so that proper provision may be made for his transportation and entertainment.

Mr. Haffen — I have received several communications from different parties and ask that they be referred to appropriate committees. I also ask unanimous consent for the introduction of an amendment.

The President — Mr. Haffen asks unanimous consent for the introduction of a Proposed Amendment to the Constitution. Is there objection?

Mr. Low — I think it was fully understood last week that no amendments would be introduced after last week by members of the Convention. If they come now they should come from committee.

The President — Objection is made and the amendment cannot be received.

The President — The communication presented by Mr. Haffen, on behalf of William T. Rehm, will be referred to the Committee on Suffrage.

The Chair lays before the Convention a communication from the legislative committee of the Fort Orange Court, No. 55, which will be referred, the first paragraph to the Committee on Charities; the second paragraph to the Committee on Taxation; and the third to the Committee on Finance.

The Chair also lays before the Convention a communication from Mr. J. Noble Hayes, which will be referred to the Committee on the Judiciary.

Also a communication from the Citizens' Union, in the city of New York, which will be referred to the Committee on Cities.

Also a communication from the New York Society for the Prevention of Cruelty to Children, which will be referred to the Committee on Charities.

Also a communication from Mr. Charles M. Dennison, to be referred to the Committee on Corporations.

Also a communication from Mr. H. F. Foster, of Utica, to be referred to the Committee on Suffrage.

Also a communication from Mr. Louis J. Altkrug, of Brooklyn, to be referred to the Committee on the Judiciary.

Also a communication from the Committee for a State Police, to be referred to the Committee on the Governor and Other State Officers.

Are there any further memorials or petitions?

Communications from the Governor and other State officers?

Notices, motions and resolutions?

The Secretary will call the roll of districts.

Mr. Franchot — Mr. President, in behalf of Mr. Wagner, I move that the Committee on Cities be discharged from further consideration of Proposal No. 68, that it be amended as hereon noted, printed and recommitted to that Committee.

The President — Is there objection? There being no objection the order is made.

Mr. Wickersham — On request of Mr. M. J. O'Brien, I ask that the Committee on Legislative Organization, etc., be discharged from further consideration of Proposal No. 673 Introductory, No. 690 Print, that the same be amended, reprinted and recommitted to that Committee.

The President — Is there objection? The Chair hears none and the order is made.

Mr. Tanner — Mr. President, Mr. Bell two days ago made a motion referring to Print No. 643, Introductory 627, that the Committee on the Governor and Other State Officers be discharged, and that it be referred to the Committee on Prisons. If that is agreeable, I am willing to have it done, a copy to be sent to the Committee on the Governor and Other State Officers.

Regarding Introductory Nos. 82 and 83 which he asked to have the same disposition made of, the Committee on the Governor and Other State Officers has already had a hearing on one of these, and it seems to me that it is too late for such disposition to be made; but I will say to the Committee on Prisons that our Committee will confer with them before any action is taken. I therefore ask for the discharge of the Committee on the Governor and Other State Officers from Print No. 643, and that it be sent to the Committee on Prisons, a copy to be retained by our Committee.

The President — Is there objection to the change of reference proposed? The Chair hears no objection and the order will be made.

Mr. Haffen — Mr. President, I would say in connection with this amendment, which I am about to offer, that it is an amendment to what I introduced heretofore, and I would ask that it be received now by unanimous consent.

The President — Mr. Haffen explains that the Proposed Amendment which he offers is intended as an amended form of a Proposed Amendment to the Constitution already introduced by him, and he asks unanimous consent, in view of that, that it be received.

Mr. Low — I withdraw my objection.

The President — There being no objection, the Proposed Amendment will be received.

The Secretary — By Mr. Haffen: Proposed Amendment to the Constitution.

Second reading — To amend Sections 2, 3 and 4 of Article III of the Constitution, in relation to number and terms of Senators and Assemblymen; Senate districts; enumerations and reapportionments.

The President — Referred to the Committee on Legislative Organization.

Mr. R. B. Smith — I move to discharge the Judiciary Committee from further consideration of Amendment No. 710 and the Committee on Cities from further consideration of No. 257 for the purpose of amendment, reprint and recommittal.

The President — Is there objection to the order proposed? There being no objection that order will be made.

The President — Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

Mr. Lindsay — I should like to be excused from attendance next week. It is absolutely necessary — I will be engaged all of that week.

The President — Mr. Lindsay asks to be excused from attendance next week. Is there objection? The Chair hears no objection and the excuse is granted by unanimous consent.

The Secretary will call the calendar.

The President — No order upon the calendar being moved, is there any further business to be brought before the Convention? The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 12 o'clock noon on Tuesday next.

Whereupon, at 10:16 a. m., the Convention adjourned to meet at 12 o'clock noon, Tuesday, June 29, 1915.

TUESDAY, JUNE 29, 1915

The President — The Convention will please be in order.

Prayer will be offered by the Rev. Charles J. Dutton.

The Rev. Mr. Dutton — O God, Thou who are the spirit infinite and in all things, and Thou whom we have been taught to call our Father, believing in Thy mercy and Thy love, we thank Thee for this beautiful day, that we have the opportunity to do our work, and we pray that whatever task may come to our hands we may do well, and we ask that we may have that same charity that was in Christ, the same brotherhood, the same compassion, and the same mercy that in all our dealings, we may be tolerant with those about us, respecting the opinions and beliefs of others, and we pray for Thy blessing on our country, that its life may be a life of service, dedicated to Thy will, and whatever may come into our daily life we ask that we may eternally strive to do the best thing we can at all times, and we ask it in the name of God the Father, and of Christ the Brother of every man, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? If there are no amendments the Journal stands approved as printed.

Petitions and memorials.

Mr. Wood — Mr. President, I offer the following resolution and move its adoption.

The President — The paper handed up by Mr. Wood is a resolution which will be held by the Secretary until that order of business is reached.

Mr. Leggett — Mr. President, I have in my hands resolutions adopted by the Citizen's Hose Company of the village of Bolivar, Allegany county, and the J. B. Bradley Hose Company of Bolivar, Allegany county, New York, favoring the adoption of the Proposed Amendment of Delegate S. K. Phillips in regard to the civil service which I will ask to have referred to the Civil Service Committee.

The President — The memorials presented by Mr. Leggett will be referred to the Committee on Civil Service.

The Chair hands down and lays before the Convention a communication from the New York County Committee of the National Progressive Party which will be referred to the Committee on Bill of Rights.

The Chair also lays before the Convention a communication from the Long Island Baptist Association under date of June 23, 1915, which will be referred to the Committee on Education with a copy to the Committee on State Finances.

The Chair also lays before the Convention a communication from Mr. William Hemstreet, of Brooklyn, which will be referred to the Committee on Suffrage.

The Chair also lays before the Convention a communication from the New York Board of Trade and Transportation which will be referred to the Committee on Conservation of Natural Resources.

Are there any other memorials or petitions?

Communication from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. C. A. Webber — Mr. President, I offer the following:

The Secretary — By Mr. C. A. Webber: Resolved, That the board of estimate of the city of New York, or such officer or officers of said city as can do so, be requested to furnish this Constitutional Convention the following information in reference to taking possession of private property for city use before legally condemned and compensation made under section 1439 of the charter of said city.

The President — Committee on Library and Information.

Mr. E. N. Smith — I move that the Committee on Cities be discharged from further consideration of Proposed Constitutional Amendment, Print No. 523, Introductory No. 511, that the same be amended as indicated, reprinted and recommitted to said Committee.

The President — Is there any objection to the order proposed? Without objection that order will be made.

Mr. Wood — I offer the following resolution and move its adoption.

The Secretary — By Mr. Wood: Resolved, That the thanks of this Convention be given to the citizens of the city of Saratoga Springs for their hearty invitation, so earnestly extended by Mr. Brackett to the delegates to attend the unveiling of the Spencer Trask Memorial, "The Spirit of Life," in the Casino Park at Saratoga Springs, on Saturday last, and to Mr. Brackett personally, and for the gracious reception given the delegates attending

those most impressive and instructive ceremonies, and for conferring upon them the distinguished privilege of being among the honored guests on that interesting occasion.

The President — Is the Convention ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The President — The Chair, without a formal motion, will assume that it is the duty of the Secretary of the Convention to transmit a properly authenticated copy of the resolution which has been adopted to the municipal authorities of the city of Saratoga Springs.

Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business in general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The President — Three general orders having been moved, the Convention will go into the Committee of the Whole for their consideration. Mr. Brackett will take the Chair.

(Mr. Brackett takes the Chair.)

The Chairman — The Convention is in general orders on the calendar. The Clerk will read a bill, a Proposed Amendment.

The Secretary — Print No. 34, General Order No. 1, by Mr. Austin. To amend Article I of the Constitution, by striking therefrom the provisions of Section 13 of said article relating to leases and grants of agricultural lands.

The Chairman — Is the amendment moved? The Clerk will proceed and read the amendment section by section.

The Secretary — Article I of the Constitution is hereby amended by striking therefrom the provisions of Section 13 of said article.

The Chairman — The Clerk will read the article of the Constitution as amended by the striking out. I think we must have that.

The Chairman — Not printed in the amendment. I am afraid it does not conform to the rules, fully does it? The amendment as on the file should under the rule show by brackets the matter in the old Constitution that is stricken out.

Mr. Austin — Mr. President, as to that amendment it is possible it is not in proper form. At the time it was prepared others had introduced amendments striking matter from the Constitution, but there was no exact precedent to follow at the time this amendment was drawn, and it was drawn very similarly to a bill or the

course adopted was that which would be adopted, I think, in drawing a bill repealing a law — chapter so-and-so of the Laws of '96 is repealed — and that was the method of preparing this amendment, and personally I think it is in proper form.

The Chairman — If there is no motion with respect to it, is there amendment?

Mr. M. Saxe — Mr. Chairman, I think it will be safer, merely for the practice in the future, to discharge the Committee of the Whole and recommit this proposal to the Committee on Legislative Powers for the purpose of having the bill reprinted so as to clearly indicate the purpose of the proposal, and then reported, retaining its place on the general orders calendar.

The Chairman — May the Clerk first read the section of the article which is repealed by this Proposed Amendment?

The Secretary — Section 13. "No lease or grant of agricultural land for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid."

The Chairman — The amendment as printed purposes to repeal entirely the section which has been read. Of course I suggest that the entire old Constitution is repealed unless it is readopted.

Mr. Austin — Mr. Chairman, it seems to me that it is quibbling with the situation to ask that this bill be recommitted for printing. If you attempt to repeal an entire statute in the Legislature you do not print the old statute in brackets and then put after it "the foregoing is repealed." Now everybody knows just what this amendment does and if you wish to debate it now all well and good, but if you don't wish to debate it postpone action by a direct resolution, not by the ridiculous method of asking it be recommitted and reprinted in a manner which has never been adopted in any legislative body so far as I know.

Mr. Quigg — If the gentleman wishes it repealed, and if the Constitution unless adopted is repealed, he gets what he wants; so why not debate it now and find out what the sense of it is, so that we can make some progress? I would like to hear what Mr. Austin wants to do.

The Chairman — It is a matter entirely within the control of the Committee.

Mr. Clinton — This Proposed Amendment has been sent to the Committee of the Whole by the Convention. I raise the point of order that the Committee of the Whole must pass upon it. It cannot, by its own motion, discharge the Committee of the Whole and recommit.

The Chairman — This Committee cannot discharge itself.

Mr. Austin — I think we have wasted enough time in preceding days of this Convention in debating the procedure which we should

adopt. I am going to make an endeavor to debate this proposition and get at something. Therefore, I make the usual motion, that when the Committee rise it report this amendment to the Convention and recommend its passage, and upon that motion I wish to say something about the amendment.

Of course, it is somewhat embarrassing for me to shoot the first gun in the war of words that is going to follow the debate upon this amendment, and the first thing that I want to say about this amendment is, that, personally, I do not give a rap whether it is adopted or not.

I make that statement principally for the benefit of my friend, the delegate from Watertown, Mr. E. N. Smith, who smilingly sidles up to me about every day and asks me when I am going to move this amendment and what there is actually to it.

I want to say that I represent no prospective feudal baron. I do own a farm, and for that reason I may be said to have an interest in this amendment, but that interest I can assure you is absolutely academic, because I doubt whether I could give my farm away, much less rent it to anybody for a term of twelve years.

I read an article after I was elected to this Convention, and the reading of that article was the reason for the introduction of this amendment. It said there was a whole lot of junk in the Constitution, and I read it through pretty carefully, and so far as I could find, this was about the only thing that I thought was junk.

So I introduced the amendment proposing to repeal this limitation upon agricultural leases.

Now, I am not going to indulge in a dissertation upon the feudal law of England. I am simply going to give a few facts, which, as I understand, led to the adoption of this provision in 1846.

As you all know, the four sections, all of which were companions, were adopted in that year. They abolished feudal tenures, declared all lands to be allodial, abolished quarter sales and restraints upon alienation, and so forth, and limited agricultural leases to twelve years.

It is but fair to say that the feudal system of land tenures never existed in the State of New York. It had been abolished long before by the statutes of New York.

The class that we know more about was that established by Dutch order of Patroons which flourished in this section of the country in the early history of the State — in the Province of New York. That order was created in this way. The Dutch East India Company provided that any person who would establish a colony of fifty souls, fifty persons, should receive a certain grant of land. My recollection is that it was something like twelve or fourteen miles upon a navigable stream and extending indefinitely back into

the interior, or, if it were on both sides of the stream, the distance along the stream was less, and the size of the grant was increased if the colony established was larger.

The one with which the residents of Albany are most familiar, and possibly the best known of all these patroon grants, was the grant to Killen Van Rensselaer, who was an Amsterdam pearl merchant, and who received enormous grants of land back in about 1630 — which grants of land I believe he never saw.

The original grant was largely increased by purchase, and finally there came a time when this manor consisted of upwards of 600,000 acres of land, comprising practically all, if not entirely all, of the counties of Albany and Rensselaer and nearly all of the county of Columbia.

Now, those grants were very peculiar and I wish to refer to them briefly for the benefit of some who may not be familiar with them.

They gave almost kingly rights to the lord of the manor, the patroon, and the colonies were established by leasing the lands to the colonists who came over. The original leases, contrary to popular impression, were very liberal, and at first, at the very first, the system worked very satisfactorily because of the liberal policy that was pursued by the patroons.

But as time went on, this system gradually created a local aristocracy and the peculiar forms of the leases aroused a great popular discontent. That discontent existed prior to the Revolution. The leases were peculiar. They reserved not only a rental but in many cases personal service, and that was one of the things that aroused the most discontent — the personal service feature of these leases; also the fact that the tenant had to first offer his produce for sale to the patroon or lord of the manor before he could sell it to any one else. Some of the leases even provided that the leaseholder does not entertain a stranger in his house without consent of the patroon.

Of course those things were peculiar to the day in which they existed, and nobody would assert for a moment that any such system of leasing land could exist at the present time. But finally this situation went on until the Revolution occurred, and by statutory enactment the feudal system of landholding, or our nearest approach to it, was abolished. Stephen Van Rensselaer, I believe, was the last owner of the manor of Rensselaerwyck and during his lifetime there was not very much trouble about these leases, because he was very, very liberal. He had inherited all this vast manor under the rule of primogeniture which was abolished; but he began, however, looking to the future, to the retention, under some scheme, of this vast estate in his own family.

and he established a system, not of leases, but under a peculiar instrument which, it is said, was drawn by his brother-in-law, Alexander Hamilton. He provided for a grant of these lands, something that purported to convey the fee, although at the same time reserving services in some instances, and particularly reserving — what is abolished by the Constitution — the quarter sale, and very few people, outside of those who have looked into it recently, know what that was. That was a provision that every time the purchaser of this land from the lord of the manor sold it to somebody else he had to pay to the lord of the manor a quarter of the selling price, and that went on indefinitely. That was abolished by the present Constitution, and was a restraint upon alienation which should not be permitted, of course.

Dissatisfaction with all these things grew up among the tenantry and along in the thirties and forties it grew very rapidly, and we had in this section what were known as the anti-rent wars. They were not wars; they were disturbances; they were opposition to the rule of recognized government. And, finally, Silas Wright having been defeated for Governor upon this very issue, the Convention of 1846 met and these four sections of the Constitution were enacted into it.

Now I believe that I am absolutely correct in saying that every evil which existed in connection with these leases had been abolished by statute at the time, and long before, these sections were introduced into the Constitution. The abolition of these estates by statute and the enactment of these sections into the Constitution did not pretend to wipe out the rights which had been vested, which had become vested, under the old contract; and the only new thing that was done by these four sections was the limitation of leases to twelve years — leases of agricultural lands for twelve years. The other three sections had been covered by legislation.

Mr. Quigg — Is there anything in the Constitution to prevent my leasing a railroad through the streets of Albany or the streets of New York for ninety-nine years or 999 years?

Mr. Austin — No, sir; not so far as I know.

Mr. Quigg — Under the Broadway Railroad decision, it is a perpetual franchise that runs through those streets.

Mr. Austin — I believe you are correct.

Mr. Quigg — And I can't let my farm out here in Columbia county for more than twelve years?

Mr. Austin — No, sir.

Mr. Quigg — Well, so far as I am concerned, the gentleman does not need to go any further.

Mr. Austin — I fear that there may be others who will be a little concerned, and, with the permission of the Convention, I

am going to continue my remarks which will not be very extended, I promise you. In 1846, if any one will examine the proceedings and debates of that Convention, they will find that these sections were really adopted from sentimental reasons; that is all there was to it. It was freely stated in the Convention that these sections would not accomplish any thing that had not already been accomplished, and it was also freely stated, however, "We must do something to please the discontented tenants," and therefore they did adopt these sections of the Constitution. I find that in subsequent Conventions nothing was attempted to be done with reference to these sections, or this particular section, except that in 1894, Delegate Lincoln, father of our Delegate Lincoln, proposed an amendment increasing this limitation to twenty years, and Delegate Elon R. Brown proposed that all leases, whether urban or suburban property, be limited to twelve years. Neither of these proposals was acted upon at all by the Convention — were not adopted.

I may say that the observation which I find in certain reported cases about this section, to the effect that this is the first attempt of any State or of the State of New York to limit leases of agricultural lands, is untrue, because I think it was 1782 — about that time — the State of New York, by an act of the Legislature, prohibited the leasing of any land in the State of New York for more than twenty-one years, and about six years later it repealed that act. Now, I was interested to find whether there were any other States of the Union which had a similar limitation. There are four other States: The State of Minnesota, by its Constitution, limits the renting of agricultural lands to twenty-one years; Wisconsin to fifteen years; Iowa to twenty years; and Michigan to twelve; and the State of Arkansas, in 1868, limited leases to twenty-one years, but in 1874 it repealed that provision. So that we have a precedent and it seems to me that the fact that no evil has arisen in all those great western States where the ownership of land is centered in large holdings — that nothing has arisen which caused these States to adopt a provision similar to this — is a pretty good argument that no evil will arise in the State of New York if this provision is abolished. As to those four Constitutions which retain this provision, I call attention to the fact that they were adopted about the fifties, very shortly after the State of New York adopted its Constitution of 1846, and in each case the Bill of Rights article was taken practically entire from our Constitution, and put into the Constitutions of those few States.

Now, I do not wish to leave this subject without calling attention to the fact that I have received a communication from the

Commissioner of Agriculture, stating that in a conference of representatives of agricultural interests, among others being present Delegate Low of this Convention, it was determined that — this is what it says: "Discussion brought out the fact that there were possibilities of hardship if this section should be omitted," and therefore this conference passed a resolution that it was the sense of this committee that this section should remain unchanged in the Constitution of the State of New York.

Upon receipt of this communication — I had already endeavored to secure information from the Commissioner upon this subject, but our wires crossed — I went to see him. He smilingly said that he had written this letter, but he did not know anything about it, and knew of no hardships himself which would ensue, and he turned me over to the counsel for the Department, Mr. Flanders. I asked Mr. Flanders what these hardships were that had been discussed by this conference, and he found himself unable to tell me. I am hoping that Delegate Low will tell us what those hardships were. All that Mr. Flanders said was this, and it is the only argument which up to this time I have heard anybody advance against the proposal to repeal this section; he asserted that it is in the Constitution; he said it must have meant something when it was put there — the people who put it there had some reason for it, and therefore it is safer to let it stay.

Well, that may be a good argument. I think it is perfectly safe to say that it would not do any harm to put the Ten Commandments in the Constitution, but I do not believe that is a good argument for putting them there. It has also been asserted to me that occupancy of agricultural lands, under a long-term lease, tended to make a person not careful as to whether or no he should improve his land.

The courts have said that there is not the incentive to improvement, but, surely, it seems to me that there is more incentive to improvement by the holder of a long-term lease than by the holder of a short-term lease. We see every day in this State holders of long-term leases of city property spending vast sums upon the improvement of that property and, so far as I am concerned, I do not think that the long-term leases will stop improvement half as much as short terms and I want to say that it was not the long-term lease that caused dissatisfaction with the old manorial leases at all, it was the evil of feudal tenure and restraints on alienation and things of that sort that caused dissatisfaction, it was not the length of the term. Now it is true it may not be good business judgment to hire or lease a farm for two years, ten years, twenty years or fifty years, but I don't think it is the purpose of this Constitution to determine what is good and what

is bad business judgment. I think this section is absolutely useless. I think it always was absolutely useless. I don't think it ever righted a wrong or prevented it and for that reason I have introduced this amendment and I urge its adoption.

Mr. Marshall — It is a source of great satisfaction to me to know that so able a lawyer as Mr. Austin has examined the Constitution carefully and has found but one specimen of "junk" in that instrument; and that of course would be a justification for his Proposed Amendment if it were true that this provision which he is seeking to strike from the Constitution is mere "junk." I beg to differ with the views which have been expressed. While it is not the most important clause in the Constitution, while its elimination might not result in lasting injury to the State, while it might not have been necessary or even desirable to have put it into the Constitution now, if it had not already been in the Constitution, because in the nature of legislation, yet there are strong reasons why it should remain where it is as declaratory of the public policy of this State, and as continuing in our organic law a declaration which, from a historic standpoint, is an important one.

Mr. Austin has stated with great accuracy the origin of this provision. He is perhaps a little inclined to give slight weight to the conditions which prevailed for a number of years before its adoption. The anti-rent war was an actual war, it was not merely an outbreak. It involved an uprising of the people and a large proportion of the people in at least six of the counties of this State. It resulted in a proclamation issued by the Governor of this State, declaring that the county of Delaware was in a state of insurrection. It necessitated the calling out of the militia in various of the counties of the State. It resulted in bloodshed, in virtual insurrection. In one county upwards of ninety men were indicted for murder and thirty of them either pled guilty or were convicted of murder. All of this was occasioned by the dissatisfaction which prevailed with the existing land laws and with the manner in which large proprietors of lands used their holdings and refused to sell them, retaining them in their families from generation to generation, and leasing them on long terms to such people as desired to engage in agriculture. It is true that in 1846 the statutes of the State had declared that there should no longer be feudal tenure; it is true that as early as 1837 our statutes declared that the ownership of lands in the State should be allodial; but nevertheless it was felt important to place in the Constitution of this State a declaration for all time that tenure should never be feudal and should be allodial and that all the instruments of feudal tenure should be brushed away. My

friend has not suggested the elimination of the constitutional provision in Section 10 in relation to escheats or Section 11, feudal tenures abolished; or Section 12, with regard to allodial tenures; or Section 14, fines and quarter sales. If Section 13 which relates to length of term in which a lease of agricultural land shall exist is "junk" and unnecessary, then why is it necessary to keep in that Constitution these other provisions which he by his declaration has indicated to be other than "junk," but to be substantial and important? As a matter of fact before 1846 lands were escheat to the State. As a matter of fact before that time, as I have indicated, the statutes dealt with feudal and allodial tenures. Then why should there be discrimination on this provision relating to the Constitution whereby that which has fallen under the criticism of our fellow member should be eliminated? The same reason which existed in the one case existed in the other. It is important historically to preserve continuity between the present and the past. We would not strike out Section 1 of Article I of the Constitution merely because it was to be found in Magna Charta, nor would we strike out the other provisions of the Bill of Rights merely because they were to be found in the Bill of Rights or Petition of Rights which came to us from England, or because some of them were declared in the Constitution of '77 and the others in the Constitution of '21 and have become a part of our political life. I think there is much to be gained in perpetuating in the organic law these fundamental principles and these expressions of public policy. They are instructive and the future generations might be entirely ignorant of their own history and possibly go back to the very evils which were eradicated by provisions of the character to which I have referred.

If we do not know the history of this provision we might find no objection to large holdings by individuals, or corporations, of lands. We might have no fear if it should appear that single individuals in this State have acquired for the purposes of private parks sixty or a hundred thousand acres, and have taken them out of agriculture, and if there is a tendency in that direction at the present time, it might be well for us to preserve in our Constitution a prohibition which not only relates to the leasing of lands by a large landowner, but also the taking of leases from landholders of large tracts of land for long periods of time, and thus affect our agricultural prosperity.

That is one of the dangers of the present age. The dangers which were recognized in 1846 related to the unwillingness of large landholders to sell their property, or their insistence that they should only lease the property for long terms, so that they may continue that large ownership.

The danger of the present day is not only that there may be these large acquisitions of property, this concentration of land in single holdings, but also the leasing from the small landholder, who has no use for his farm, as my friend from Greene indicates that he has not for his — the leasing of those lands for long periods of time to gentlemen who wish to have large estates and large private parks in the various sections of this State.

Mr. Quigg — He can buy them, the person or persons to whom you refer.

Mr. Marshall — He can buy them. There is no objection to his buying them.

Mr. Quigg — If he buys them he takes them out of agriculture much more effectually than by leasing them for a period of years.

Mr. Marshall — He might. But that is no answer to the proposition. The answer to the proposition is that there are many men, like the gentleman from Greene, who get tired of their land, and who are perfectly willing to get rid of them for long leases, if they can do it, in moments of disgust, and their neighbors would be apt to do the same thing, and they might be willing to make leases to some individual for a long period of time.

Mr. Austin — I simply wanted to correct the impression that I am getting tired of my land in Greene county. It is like the waters which flow so bountifully from the bowels of the earth at the place of residence of the chairman of this Committee; I never tire of it.

Mr. Marshall — Well, I am glad to know that. That is a very admirable trait in my friend, that he does not weary of his land.

Mr. Quigg — We want to make a Constitution for these times in this State, instead of for other times and other States and other conditions.

Why should not I, having bought a considerable tract of land, having improved it, and having gone off on the *Titanic*, or on the *Lusitania*, as Mr. Pearson did, and being sunk — why should not my heirs have the right to lease that great property for twenty-five or fifty years? What harm is going to come of it?

Take my own case. Why should not I, after having improved my farm, if I see a chance to lease it for twenty or fifty years — why should this thing stand in my way? Let us come to the immediate issue in the State of New York.

Mr. Marshall — My answer is that it might not do harm in individual cases. We must consider the general result. We must consider what would be the best thing for the people of the State.

I will also inform my friend that we are not dealing with a matter that is arising to-day for the first time. We are not legis-

lating. We are merely arguing the question as to whether or not we shall continue in the Constitution a provision which has existed there ever since the year of 1846, without the slightest harm to anybody, without the slightest injury to anybody, and the burden of proof rests upon those who are seeking to make the change.

The gentleman has spoken of Mr. Pearson, who was lost on the *Lusitania*. I happened to know about his operations in Texas, because I happened also to be counsel for a corporation in which he was interested, and I know that his policy was to sell the property, that his desire was to sell it; and I also know that the statutes of Texas are very strong in their prohibition against the ownership of large tracts of land by any corporation, and for that reason it was necessary for Mr. Pearson to conduct his operations in a manner which would enable him to carry on his large irrigation schemes in which he was engaged there.

But it was recognized by him, and by those associated with him that it was desirable not to have these lands remain in one hand, but that it was for the public benefit, for the benefit of the people of the State of Texas, to have these lands divided up in small holdings, in order that the agriculturalists might develop them, and in order that the wealth of the State might be developed.

The same rule exists in other States; in Oklahoma, where there are large tracts of land, which are rich in gas and oils, and which are owned by the Indians, our government has made regulations which prohibit absolutely the taking of leases of those lands by any one corporation, or one association, or one body of men, beyond a certain stipulated number of acres.

Mr. Quigg — Does not the gentleman recognize that we are not making a Constitution for Texas or Oklahoma?

Mr. Marshall — If you will allow me to argue, perhaps it would be a little better, because you have plenty of opportunity to respond. That is not asking a question; it is merely an interruption.

Now, in Oklahoma, not only is there this limitation upon the quantity of land which can be held by any one body of people, or by any one individual, but there is also a limitation as to the length of the time during which the leases may be given, and within the last two weeks the government in renewing leases which had been in existence for a number of years refused to make a lease to the original lessee, who held a lease for a very large tract of land, insisted upon dealing with the sublessees, and limited the period of time of these leases to a time — to a period of time not to exceed ten years.

That is the policy everywhere. It is done in the West by statute. Here in this State we might do it by statute, but the

effort was made to do it by statute in 1846, and it failed, and because it failed, those who felt that they were doing what was best for the interests of the people of this State insisted upon putting it in the Constitution, and the members of that Convention, many of whom were lawyers of high standing, consented that it should be done, in order to carry out what they then believed was the best policy of this State.

I have attempted to show that this rule works both ways; not only as to the act of a lessor holding large tracts of land, but also as to the acts of one who would take, as a lessee, from small holders, leases for a long period of time for small tracts of land.

After all, it is important to the people of the State to preserve the rights of the farmer, to preserve our agricultural wealth, to make it impossible to place any obstacles in the way of the best development of our lands for the purposes of agriculture, for upon our agriculture we depend largely for our wealth and our prosperity.

The gentleman seems to be oblivious to the fact that in other countries there have been difficulties of the same character which existed right here in Albany county at the time of the anti-rent war.

I instance to him and to the members of this Convention the conditions which have prevailed in Ireland for many years, on account of their land leases, on account of the insistence upon the part of the nonresident landlord, the absentee landlord, of holding huge tracts of land and refusing to sell them to small farmers in order that they might acquire the ownership and the independence which was incident to the ownership of property, and for thirty years Ireland rang with protest against that condition, until attempts were made by Gladstone and other great statesmen to end those difficulties by simplifying the processes of acquiring land, and putting an end to the abuses which resulted from these large ownerships, which were based upon the theory of continuing those ownerships and of refusing to sell the property, limiting the enjoyment of the property, and by limiting the disposition of the landlords to lease generally for long terms of years.

Now, I do not think that we should be entirely deaf to the voice of the past, and to the teachings of the past in matters of this kind, but I think we had better place ourselves, as nearly as possible, in the position of the men who composed the Constitutional Convention of 1846, and to have, to some extent, a knowledge of the situation which led to the adoption of this provision of the Constitution.

The gentleman from Greene has referred to Mr. Lincoln, an honored member of the Convention of 1894, and I take the liberty of reading from what he says upon this subject in Volume II of his work on the Constitutional History of New York State, which should be the *vade mecum* of every member of this Convention, during the remaining hours of our session. He says:

“Governor Seward, in his message of 1840, gave a brief history of these troubles, and the causes which produced them. He said that ‘the resistance to the sheriff arose out of a controversy between the tenants of the manor of Rensselaerwyck and its proprietors. The lands in that manor are held under ancient leases, by which mines and hydraulic privileges, rents payable in kind, personal services, and quarter sales are reserved. Such tenures, introduced before the Revolution, are regarded as inconsistent with existing institutions, and have become odious to those who hold under them. They are unfavorable to agricultural improvement, inconsistent with the prosperity of the district where they exist, and opposed to sound policy and the genius of our institutions. The extent of territory covered by the tenures involved in the present controversy, and the great numbers of our fellow citizens interested in the questions which have grown out of them, render the subject worthy of the consideration of the Legislature. While full force is allowed to the circumstance that the tenants enter voluntarily into such stipulations, the State has always recognized its obligation to promote the general welfare, and guard individuals against oppression.’”

He expressed the hope that some measure would be adopted which, without violating contracts, or doing injustice to either party, would “assimilate the tenures in question to those which experience has proved to be more accordant with the principles of republican government, and more conducive to the general prosperity and the peace and harmony of society.”

Governor Wright, in 1845, considered the subject at great length in his annual message, giving a history of the troubles and efforts to resist the execution of the laws, and the issues involved, and recommending legislation which he thought would aid in restoring order. He said that the difficulties between the proprietors and tenants had been accumulating for several years, and had been the occasion of local disquiet, sometimes leading to disturbances which threatened social order and public peace; that “an exciting State election was made the occasion for an earnest attempt to intermix these questions with the general politics of the State, and make them tests of election to the Legislature.” He said it was expected that since these troubles had been made an issue in the election an opportunity would be given the

Legislature to act before the disturbances were resumed, but this had not been the case. Resistance had continued without waiting for legislative action.

"Organized bands of men assuming the disguise of savages, with arms in their hands, have already bid defiance to the law, its process, and its officers." He informed them that two peaceable and unoffending citizens had lost their lives in the disturbances, that these events, with continued and aggravated breaches of the peace and general disquietude caused by organized resistance to law, "had given to the whole public mind a shock which nothing but the prompt and effectual restoration of the reign of law and order can calm."

He said the question between the proprietors and the tenants was, "whether the leasehold tenures should be perpetuated, or the rents should be commuted upon fair and reasonable terms, and fee-simple titles should be given upon the payment of a capital in money, which, invested at a stipulated rate, would reproduce the rents to the landlord;" and that the "controversy was one in which the feelings and sympathies of our people were deeply enlisted, and strongly inclining in favor of the tenants." He further remarked that without the existing disturbances the questions would have been how "contracts onerous in their exactions, and tenures in their nature and character uncongenial with the habits and opinions of our people, could be peaceably and justly and constitutionally modified to meet the changed circumstances of the times;" but in view of the hostile attitude assumed by those in charge of the cause for the tenants, threatening all organized government, the Governor refrained from discussing the issue on its merits, expressing the opinion that the attention of the Legislature and of all good citizens should be addressed first to the suppression of disorder and the re-establishment of lawful authority. He appealed to the tenants and others who had joined in organized resistance to government to desist from further lawless acts and aid in restoring good order; suggesting that not until then could the merits of the controversy receive the calm and deliberate consideration which its importance demanded.

He said that the principal disturbances of recent date had been confined to the counties of Columbia and Rensselaer, and that in the former county the disorders had become so serious that Governor Bouck, in 1844, had ordered out the militia to aid in preserving the peace. Governor Wright, referring to the fact that persons who resisted the law were disguised, sometimes as Indians, recommended that a law be passed making it an offense to assume such disguises, and making the wearers of such disguises subject to arrest and examination, even if no actual crime had been committed. The Legislature adopted this suggestion,

and passed a law declaring persons appearing in disguise to be vagrants. The Legislature also at this session passed "An act to enforce the laws and preserve order," providing for the organization of jail guards, prescribing penalties for resisting legal process, authorizing the Governor to loan equipments for local use, and by proclamation to declare a county in a state of insurrection where the execution of legal process is resisted by bodies of men and combinations to resist the execution of such process by force, and where the power of the county has been used and found insufficient for the emergency.

Then, in 1846, Governor Wright, in his message, indicated that further relief was necessary. He said:

"A suggestion has been frequently made, in connection with the troubles arising from these tenures, the adoption of which I suppose to be within the unquestioned power of the Legislature, although I am not aware that it has been urged by the tenants upon the existing leasehold estates. It is that a law should be passed to prohibit, for the future, this form of selling farm lands, by declaring that no lease of such lands, for a longer term than five, or ten years, or some other short period, shall be valid. It is entirely apparent, notwithstanding the very unwarrantable character of the late disturbances upon the leasehold estates, that these tenures are not in accordance with the spirit of our institutions, or with the feelings of that portion of our people in no way interested in the disturbances, or in the relations out of which they have grown. Such is manifestly the settled state of the public mind upon this point, that the multiplication, or material extension of leasehold estates, would be looked upon as a public evil, threatening more widespread and serious disturbances than those which have, recently, interrupted our internal peace. If, therefore, there be no obstacle in principle, and none presents itself to my mind, may it not be well for the Legislature to put at rest any apprehension of this sort, by the passage of such a law? I should hope for salutary influences from such legislation upon the existing estates. I think it would have a tendency to confirm, in the minds of the landlords, their present inclination to commute the leasehold titles, and would operate strongly upon the tenants, to induce them to accept fair terms of commutation, and discharge themselves, at as early a day as possible, from an objectionable system of tenures thus confined to them."

Upon this message having been presented to the Legislature, a bill was introduced limiting the leasing of agricultural lands to ten years. The bill passed the Assembly and failed in the Senate, and it was for that reason that the subject was taken up in the Convention which followed a few months thereafter, with the consequence that this section was added to our Constitution.

Now, in the Legislature of 1846, to which this message of Governor Wright was presented, the subject was referred to a special committee, and that committee consisted of men of great ability. The chairman of that committee was a resident of Columbia county, being no less a man than Samuel J. Tilden. Another member of that committee was A. G. Chatfield, subsequently an Attorney-General of this State. Another member was Ira Harris, of Albany, one of the great lawyers of the State; and perhaps it might do some good to the present representative from Columbia county, and those who are of his mind, to listen to what his predecessor from that county said upon this subject.

The committee discussed the bill very carefully in a report which covers some forty pages and which I shall not attempt to read, but you will find it if you are desirous of getting the whole text of it, in Volume IV of the Messages of the Governors at pages 328 to 362. The committee showed that they had very full hearings, that representatives of the tenants from the counties of Albany, Rensselaer, Columbia, Schoharie, Schenectady, Montgomery, Greene and Delaware appeared before them. It was shown that the manor of Rensselaerwyck composed a tract extending twenty-four miles north and south and forty-eight miles east and west along each side of the Hudson river, including nearly all of the counties of Albany and Rensselaer. Most of the lands were held under perpetual leases. They showed that in Columbia county the Livingston manor consisted of a tract ten miles on the Hudson river, fourteen miles on the East Line and twenty and one-half miles on east and west of the Hudson to Massachusetts. In Schoharie county the Scott patent covered 60,000 acres. In fact, it was shown that there were leases outstanding at that time covering 1,800,000 acres of land for long periods of time and the danger was feared of the continuance of that system to the great detriment of the State. Now dealing with the evils of this system this is what the committee says:

"Of the unfavorable influence of the leasehold tenures upon the agricultural prosperity and the social condition of the communities where they exist, your committee entertain no doubt. Experience and observation — the gradually formed and thoroughly established convictions of those who are subject to them, and those who are free from them — of all who compare the effects of this system and the proprietary system in contiguous localities, and in farms intermingled side by side in the same locality, have settled the question, and, as your committee believe, have settled it in conformity with truth.

"It has indeed been urged that the lengthened or perpetual credit allowed to the settler for the purchase money of his farm, with an exemption from interest or rent for a period of generally

seven years, formed terms unusually favorable to him, conducing to his immediate prosperity and domestic comfort, amid the struggles and hardships incident to his condition, as well as securing the early occupation and cultivation of the lands. All this is no doubt true; but it by no means follows that the ultimate and permanent effect of the credit — continued beyond the immediate benefits which it did confer — was salutary. On the contrary, it is more than probable that this is another of the frequent instances in which a credit — convenient or useful at the time — becomes, in its remote and general effects, an injury.

“Nor, if it could be shown that the rent was but a moderate interest on the market value of the wild lands, or even less than the rate at which the principal could be employed, would the conclusion be warranted that such a perpetual charge, universal in a community, is good; or that, upon the whole, anything was gained by accepting it in exchange for the unalleviated difficulties which ordinarily attend those who form a new settlement.

“The mere idea of proprietorship is a valuable element of the individual and social character of the agricultural population of this country.”

That is profound truth, a truth which has only now begun to be understood in Ireland and other countries.

“The mere idea of proprietorship is a valuable element of the individual and social character of the agricultural population of this country; inculcating habitual self-respect and self-reliance; elevating the moral and mental dispositions and enlarging the capacities for action; cultivating at once a manly sense of individual independence, and a generous subordination to the collective will. The diminished influence of this idea would naturally be the more felt in a community which saw itself, in this respect, an exception to all those by which it was surrounded; and where, too, the sense of dependence was made the more offensive, by traditional associations of degrading incidents, now removed, to a relation which still continued and seemed likely to be perpetual.

“It may well be doubted, too, if an endless indebtedness, on the most favorable terms, is not a greater evil than the necessity of payment at any reasonable period. Industry and frugality are qualities not certain and invariable; and under the stimulus of a desire to escape incumbrance and attain independence, they often enable individuals, after all the sacrifices necessary to accomplish the object, to improve, in other respects, their condition.

“In the present case, in addition to restraints on alienation imposed in many of the leases, serious impediments have existed, to a free exchange of the lands, in the inconvenience and legal embarrassments which surround such transfers, and which tend to

restrain labor from seeking, through shifting employment, its most advantageous application, and to repress the disposition, the habit, and the opportunities of enterprise.

"The repugnance to this tenure, among those who are accustomed to the proprietary system, has not been without influence to keep the farms in the same hands, and to discourage the accession to these communities of the more valuable classes of immigrants from the older States. Nor can it be questioned that the inclination to make improvements is impaired if the sense of ownership is not complete. And while the effect may be small, where the lease is perpetual it increases as the permanency of the term diminishes, and where the lease is for lives or a long period of years, becomes incompatible with improvements of a permanent nature, and almost with successful husbandry. The principle applies, until we reach the case of leases from year to year, or for short terms, or, what much oftener occurs, letting out on shares; in which the tenant or farmer is not expected to make improvements, unless specially stipulated, and the owner exercises, personally, the care and faithful supervision which ownership alone can be relied on to inspire. The relation existing, in such a case, is of a nature wholly different from that which we have been considering, and is more analogous to the management of an estate, by its proprietors, through hired agents or assistants; it does not exist extensively, and in its adaptation to the peculiar and temporary circumstances of the parties, no doubt exists beneficially; but it cannot, for obvious reasons, become general as a system of tenure."

It then proceeds to discuss more particularly the Van Rensselaer leases and says that one of the evils of the system was that Stephen Van Rensselaer was a kind-hearted landlord, and when he found that his tenants were unwilling or unable to meet their rent promptly he gave them time so that at the time of his death there was owing to him the sum of \$500,000 from his tenants, and then began the difficulty because the new generation was desirous of collecting the rents, with the result that I have indicated.

Now I will not weary you by further citation of these authorities, but it seems to me that when we weigh carefully what has been said by Governor Seward, by Governor Silas Wright, by Samuel J. Tilden, by Mr. Chatfield, by Judge Harris, speaking first of their attitude when this provision was put into the Constitution, I believe that we would be erring greatly if at this time we should deliberately strike from the Constitution this clause which nobody can say has ever done the slightest harm, and which I believe has acted as a safety valve for the agricultural interests of the State of New York.

Mr. E. N. Smith — Gentlemen of the Committee, it was entirely fitting that the discussion in opposition to this Proposed Amendment should be opened by the chairman of the Committee on Bill of Rights. The section in question provides that "No lease or grant of agricultural land for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid."

On the face of it, it acts as a limitation, a restraint upon the liberty of the owner of land to transfer and sell his property; but it is included in the Bill of Rights, and was intended as a protection of the rights of the people of the State against the accumulation in a few hands of the lands of the State and the leasing thereafter under tenures of long-term through which the tenant would become degraded, as is the condition of all such tenures where lands are scarce.

I am glad that the discussion has turned along the line that this provision is obsolete. I am glad to see that no reason aside from that, that it is obsolete, is offered. No one is asking for the change. No interest is calling for the repeal, so far as appears, but the only reason is that the section is obsolete.

I am inclined to the opinion that if the matter is pressed there will come an echo on the subject from the farmers in the State which will indicate that they do not think that the section is obsolete.

I received this morning the following telegram from the Master of the State Grange:

"We are very much opposed to the Austin amendment which provides for striking out of the Constitution Section 13, Article I, regarding leasing of agricultural lands, believing it should stand without amendment whatsoever.

“(Signed) W. H. VARY,
“Master of New York State Grange.”

But I do not agree that the provision is obsolete. I do not agree that it is as obsolete to-day as it was in 1846. After the adoption of this provision the lands of the West were opened up and it was supposed that the supply of free lands was unlimited. There is no danger to this Republic so long as there is an adequate supply of free land or an adequate supply of lands at a reasonable price. The greatest asset and the greatest security to the Republic is the fact that its land-holdings are so widely distributed. This has been the subject of discussion by those who have considered American institutions. Lecky says that "Unoccupied lands are the safety valve of dangerous energies." Let me read a passage from Bryce's *American Commonwealth*, published in 1889:

"America in her swift onward progress sees looming on the horizon and now no longer distant a time of mist, and shadows where dangers may lie whose form or magnitude she can scarcely yet comprehend."

He then recites the taking up of Western lands as the outlet of restlessness and then says:

"High economic authorities pronounce that the beginnings of this time of pressure lie not more than thirty years ahead.

"Nearly all of the best arable land of the West is already occupied so that the second and third best will soon begin to be cultivated, while the exhaustion already complained of on the farms that have been under the plow for three or four decades has been increasing. *This will be the time of trial for democratic institutions.* If the crisis should arise while a large part of the population still lacks the prudence and self-control which a democracy ought to possess, what result may be looked for? There may be pernicious experiments tried in legislation; there may be occasional outbreaks of violence."

He then cites as the one great factor of safety the distribution of landed property among a great many small holders.

Now let us apply the statements to the present-day conditions: Our lands in the West have been practically occupied and taken up so that within the last few years there came a recession and an evidence of return of the people who had gone West, or their children, to take up lands in the East. That was stopped by the opening up of the great Canadian Northwest. The evidence of this reaction is also manifest in the fact that we commenced our first approaches to conservation within the last ten or fifteen years, which was due to the realization that the time was approaching when the limits of our resources in land, in forests and in water and in coal were being — were being reached.

Apply the condition to our State and see what went on between the year 1880 and the year 1890: The number of farms in this State decreased by 16,600, showing the concentration of lands into fewer holders. This of course has been due to the fact in some respects that modern machinery has made it possible to cultivate more acres of land than formerly, but nevertheless the tendency is going on. We know of the vast accumulation of wealth in this country. We know of the attacks being made through legislation upon corporate investments. We know the insecurity of those investments to-day, and there will come a time, if it is not here to-day, when people will realize that as secure an investment as they can have is to be found in the taking over of lands. When our vast fortunes enter into that field then will come the time when the brake must be put upon the occupation and holding of lands by such a provision of the Constitution

as this. If this restriction be removed what restraint is there upon the nature and character of leasing? Mr. Austin says it is obsolete, but it was not obsolete in 1866, for twenty years after the adoption of the provision the Court of Appeals in the case of *Van Rensselaer against Dennison*, 39 New York, page 393, held this proposition: That "while feudal tenures had been abolished, yet under one of these old leases the landlord had a certain right in the reserved rents and that upon the violation of these rights by the tenant ejectment would lie."

Feudal tenures abolished, yes. Leases in perpetuity made impossible by this provision, yes. And when they are impossible, then if the leases are violated, the terms of the lease violated by the tenant, the landlord may maintain ejectment no matter either how many generations the leases may have been held.

What is the purpose of this accumulation of land anyway? What was the purpose of these long leases at nominal rental? The effect was to improve the property, yes. Rentals were light, yes. But when the tenant forfeited his lease, and the property reverted to the landlord, and, as inevitably as fate, the value of the land had gone up, he, the landlord, was the one who received the unearned increment. That was the purpose of these long leases to see to it that the unearned increment was preserved to the landlord.

In 1894, one of the delegates to Constitutional Convention of that year proposed to have the same principle apply to lands in cities, particularly to lands accumulating in a few hands in New York. You know the condition down there. Theoretically, all of Manhattan Island may be owned by a few persons; if the present tendency continues that may not happen, but theoretically it will happen if parties will never sell, but simply lease the land and use the rentals for the purchase of more land.

Henry George was asked in the Convention of 1894 for his views as to the wisdom of providing in the Constitution that long leases or perpetual leases should not be allowed in the city of New York; in other words, the same provision, with a longer tenure, should be made applicable to the city of New York, and Henry George replied to this, as I am informed, "Don't put that brake on now, because in time the condition will become so intolerable that the people will actually enter upon a revolution and correct that condition."

I have said about all I have to say about it, or care to say about it. What harm does it do to leave this provision in the Constitution? No harm whatsoever. It has its historical value. It represents the condition of our people in 1846 in determining the character of land-holdings in this State. It represented a determination on the part of the people that the condition that existed in

England should not continue to exist in this State. What is that condition? Go over there and see the tenants. They occupy the land. Yes, and they will say to you, "We can occupy the land as long as we live, but we can't own one foot of soil." Now I say that there is no reason for this change; that the present provision does no harm; that I believe it will do and does do good, as having moral weight to-day and actual weight in the future. No one wants it changed, and it is dangerous to cut it out.

I come from an agricultural territory and I have delivered to you through this message of the Master of the State Grange the views of the highest authorities representing the farmers of the State on this subject.

Mr. Barnes — I should like to ask if Mr. Low will give way. I desire to move that the Committee report progress on this bill, and ask leave to sit again. I would also like to ask of the Chair, if it be in order, that when the subject is again taken up I may have the floor in order that the report of the Committee on Legislative Powers covering this matter, and the reasons why this Proposed Amendment was favorably reported, might be presented to the Convention before further speeches in opposition to it are made. It would seem that the reasons why this Committee reported this bill should be clearly set forth before the whole Convention. I would like a ruling as to whether I shall have the floor.

The Chairman — The ruling of the Chair is that it will depend upon whether the gentleman from Albany first gets the eye of the Chair at the time mentioned.

Mr. Wickersham — I suggest as an amendment to Mr. Barnes's motion that the Committee take a recess — that the Committee of the Whole take a recess until 2:30. I think it would be very desirable to finish this discussion to-day, if possible, because we have a good deal for to-morrow, as Mr. Barnes will recall.

Mr. Barnes — Yes, I know.

Mr. Wickersham — And I do not suppose the remaining speeches will take very much time. We have Committee meetings this afternoon from 3 o'clock on, and I think it would be desirable that we finish this discussion to-day.

Mr. Barnes — I accept the amendment.

The Chairman — The gentleman from Albany accepting the amendment of the gentleman from New York now moves that the Committee stand in recess until half-past 2.

Mr. Low — I would like to say that the Committee on Cities and the Committee on Bill of Rights have a joint hearing at half-past 2 this afternoon on several bills of importance, for which many people are coming up from the city, and we have in addition a hearing upon many other amendments, so that if this

afternoon is taken from us, it will very seriously interfere with the work of the Committee. I think, therefore, that that is a good reason why we should not adjourn until this afternoon. If it must go over I hope that it can go over until another day, if you please, until Thursday, instead of until to-morrow. Inasmuch as reference was made by the gentleman from Greene to my presence at a meeting of the agricultural interests, I should like to state what that was. I can do it very briefly and I would a little rather do it at this session when the reference was made than at a later one.

Mr. J. L. O'Brian — I trust that the Committee will not adopt the motion to rise at this time. It seems to me that this question is not broad in its implication. The discussion of it, it seems to me, can be concluded without great delay and I think we should hear the debate and dispose of the matter; at any rate, hear those to-day who are prepared to speak on it and desire to be heard. To adjourn until 2:30 will interfere with the work of some of the most important committees of the Convention; to defer the matter until to-morrow may make an unfortunate interference with other matters already set for to-morrow which are of serious import, and I, for one, trust that the motion will not prevail and that we may proceed and hear the debate, and, if possible, dispose of this matter in its entirety before 2:30.

Mr. Wickersham — I simply modify the motion as made by Mr. Barnes, which seems to meet the approval of the Committee, but I have no desire to cut off the discussion at all. I simply call attention to the fact that we have a great deal to do to-morrow and I think we should conclude this discussion to-day if possible. Of course, if the Committee is not ready to do it, it is in its own hands and the question is, What is the desire of the Committee? My motion was that we take a recess until half-past 2. Whether we conclude after that or not will depend entirely upon the convenience of those who desire to speak.

Mr. Barnes — Inasmuch as there seems to be some difference of opinion on this matter I think we might better settle it by a vote and I should like to withdraw my acceptance of Mr. Wickersham's amendment and call for a separation on the motion, in order that we may pass upon it immediately and know where we stand.

Mr. D. Nicoll — May we have the motion stated again?

Mr. Barnes — My motion was that the Committee rise, report progress and ask leave to sit again.

Mr. Wagner — On this one proposition?

Mr. Barnes — Well, rise immediately, not upon this one, but upon all.

The Chairman — The question is upon the motion of the gentleman from Albany, Mr. Barnes, as amended by the amendment of Mr. Wickersham, of New York, which was accepted by the mover.

Mr. Wickersham — Mr. Chairman, I will withdraw my proposed amendment so as to allow the vote to be taken first on Mr. Barnes's motion. If it is the desire of the Committee to continue discussion after to-day the Committee has only to say so.

The Chairman — The question then is by the consent of the mover and the gentleman who made the amendment, Shall the Committee now rise and report progress upon the pending amendment and ask leave to sit again? You who favor such motion will signify by saying Aye, opposed No. The Chair is in doubt. Those who are in favor will please rise and allow the Clerk to count them. All in favor of now rising and asking leave to sit again will please rise and remain standing until counted by the Clerk. The gentlemen will please be seated and those opposed will rise and remain standing until counted by the Clerk. The motion is carried and the President will take the Chair.

(President Root resumes the Chair.)

Mr. Brackett — The Committee of the Whole has had under consideration an amendment and has directed that the report be made that it has made progress and that it asks leave to sit again.

The President — Gentlemen of the Convention: The Committee of the Whole, through its chairman, has reported upon Amendment No. 34, that it has made progress, has risen and asks leave to sit again.

The President — All who are in favor of granting the request will say Aye, contrary No. The request is agreed to and the leave is granted.

Mr. Brackett — By unanimous consent, Mr. President, may I submit the report of the Committee on Legislative Organization, which report was not received in time to be submitted in the regular order?

The President — Is there objection to the reception of the report of the Committee on Legislative Organization? The Chair hears none and the report will be received.

The Secretary — Mr. Brackett, from the Committee on Legislative Organization, to which was referred Proposed Amendment introduced by Mr. M. J. O'Brien, No. 722, Introductory No. 673, entitled "Proposed Constitutional Amendment: To amend Section 4 of Article III of the Constitution, in relation to enumerations and reapportionments," reported adversely thereto.

Mr. Wagner — Mr. President, I move to disagree with the report of the Committee and that that motion lie over until to-morrow.

The President — It is moved that the Convention disagree with the report of the Committee on Legislative Organization and that the motion to disagree stand over until to-morrow. Without objection that course will be followed.

Mr. Franchot — I ask unanimous consent, out of order, to amend a proposition which I introduced, Proposition No. 131, and that the Committee on Industrial Interests and Relations be discharged from further consideration for the purpose of amendment, reprint and recommitment.

The President — Is there objection to the request of Mr. Franchot? Without objection the request is granted and the order is made.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Will the gentleman withhold that motion for a moment? The Chair lays before the Convention a communication from the Attorney-General in response to a resolution of the Convention requesting information relating to claims against the State. Unless there is some other suggestion, the communication will be referred to the Committee on the Judiciary, with a copy to Public Utilities, and a copy to Canals. Is there any other suggestion regarding the reference of this document? If any other Committee desires to use the information, the reference can be altered or amended accordingly.

Mr. Wickersham moves that the Convention do now adjourn. All in favor will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 1:45 p. m., the Convention adjourned to meet at 10 o'clock a. m., Wednesday, June 30, 1915.

WEDNESDAY, JUNE 30, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, our Heavenly Father, we bless Thee that Thou hast made us just a little lower than Thyself and Thou hast crowned us with the glory and honor of thinking Thy thought, which is truth, and of feeling Thy feeling, which is love, and of willing Thy will, which is the eternal right. And while we bring to Thee our hearts' tribute of gratitude for the dignity which Thou hast conferred upon us, and for the possibilities which Thou hast set within our reach, may we also consecrate ourselves to do those things which Thou dost require of us: To love mercy, to do justly and to walk humbly

with Thee, our God. Grant the gracious and heavenly inspiration of this sacred moment may so influence us in body, mind and spirit that we may be equipped to meet cheerfully the obligations and to discharge wisely and well the duties of this new day of life and opportunity, and to Thee shall be the praise forever more, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? If there are no amendments the Journal stands approved as printed.

Mr. Clearwater — It is my sorrowful duty as President of the State Bar Association to announce to the Convention the death of John Clinton Gray, formerly a judge of the Court of Appeals, and, with your permission and that of the Convention, I will ask Mr. Delancey Nicoll to offer a resolution which has been prepared expressing the sorrow, regret and sympathy of the Convention and its appreciation of Judge Gray's services to the State.

Mr. D. Nicoll — Mr. President, I offer the following resolution: We, the delegates to the Constitutional Convention of the State of New York, learn with deep regret of the death of that distinguished citizen, John Clinton Gray, who devoted a quarter century of his life in the service of the people of this State as a judge of its highest court. With a preparation for his life work at the bar which was extremely thorough he rose to the foremost rank in his profession. After appearing in some of the greatest contests at the bar, he went upon the bench where his name stands out prominently in the judicial history of the State. Devoted to his work on the bench, his opinions show the most careful consideration and thorough comprehension of the questions which he was called upon to decide. In them the rights of the individual as well as those of property were fearlessly maintained. To record his virtues is but to enumerate the attributes of the ideal citizen. Pre-eminently did his modesty stand forth. When asked for particulars of his own career, he replied: "My life has been so uneventful as to leave nothing particular to say." And,

Whereas, It is fitting that this Convention, representing the people of this great State, pay its respect to one with such a distinguished career, be it

Resolved, That this Convention make this resolution a part of the Record of its proceedings and that a copy thereof be sent to the immediate family, and be it further

Resolved, That when this Convention adjourns to-day, it do so out of respect to the memory of our distinguished citizen, John Clinton Gray.

Mr. Clearwater — Mr. President, I move the adoption of the memorandum and the resolution by a rising vote of the Convention.

The President — Gentlemen of the Convention, you have heard the resolution offered by Mr. Delancey Nicoll. All who are in favor of the resolution will signify it by rising. The gentlemen will be seated. The resolution has been unanimously adopted.

Are there any other memorials or petitions?

The introduction of communications and memorials and petitions is in order.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Quigg — Under the head of notices, I should like to ask the Delegate-at-Large, Mr. J. L. O'Brian, whether the Committee on Rules has considered the advisability when we reconvene, after the Fourth of July adjournment, of holding sessions on, say, Wednesday and Thursday evening.

We are all here then. We are in general orders now, and would not that shorten the period of service and the expense to the public by meeting on, say, Wednesday and Thursday evening?

I would like to ask if that has been considered.

Mr. J. L. O'Brian — Mr. President, replying to the query, I beg to say that that has not been considered, except that it has been discussed, and on the occasion when it was discussed it was thought that the business of the House did not at that time require such action.

I have no doubt the matter will now be given consideration anew, however, in view of the fact that we now have a calendar and are entering upon the active work of debating the Proposed Constitutional Amendments.

Mr. Quigg — Then, Mr. President, may I offer the following resolution simply to bring the matter before the House?

The President — The Secretary will read the resolution offered.

The Secretary — By Mr. Quigg: Resolved, That in addition to the meetings of this Convention ordered by the resolution adopted on April 28, 1915, in words as follows: "Resolved, That until further ordered the Convention meet at 12 a. m. on Tuesday, and at 10 a. m. on Wednesdays, Thursdays and Fridays, and that notwithstanding the sessions of the Convention all committees have leave to sit at and after 11 a. m. on each day," the Convention meet at 8:30 p. m. on Wednesdays and Thursdays.

The President — Referred to the Committee on Rules.

Mr. Deyo — Mr. President, I hold in my hand a unanimously signed petition protesting against the proposal which now prevents

the appropriations of public moneys for the support of sectarian schools, which I submit and ask to have referred to the appropriate committee.

The President — Referred to the Committee on Education.

The President — Reports of standing committees.

Mr. Wagner — Mr. President, under that order of business I call up my motion to disagree with the report made by the Committee on Legislative Powers and Organization.

The President — That was the gentleman's right. The report is before the Convention for consideration. The question is upon the motion made by the gentleman from New York, Mr. Wagner, yesterday, to disagree with the report. Are there any remarks to be made upon that motion?

Mr. M. J. O'Brien — I suggest, Mr. President, that as the original proposal was mine perhaps I might make a statement of the proposal as I understand it, as it is presented in the adverse report.

Mr. Wagner — I have no objection to yielding the floor temporarily for Judge O'Brien for the purpose of making a statement, with the understanding that I do not lose the floor.

The President — The Chair is not at liberty to become a party to an understanding regarding the right of the floor.

Mr. Wagner — Well, Judge O'Brien, Mr. President, has asked me to yield and any member of the Convention has a right to yield for the purpose of permitting another to make a statement or to ask a question, and I am yielding to Judge O'Brien for that purpose. That is done every day in our legislative procedure.

Mr. M. J. O'Brien — The only thought I had, Mr. President, about it was that as I presented the proposal, it would be more logical and present the matter more properly if I were permitted to state the reasons that impelled me to present that proposal to this Convention. For that reason, I asked the Senator to permit me to make that statement.

The President — It is something which is not within the control of the Chair. Mr. Wagner is entitled to the floor upon his motion, and he is entitled to proceed with any observations he sees fit to make, or he can yield the floor.

Mr. Brackett — I hope that my leader will permit the consent that Senator Wagner has asked, and that the unanimous consent will be given him. Now, if the Senator is to be ground to earth, as I believe he is to be, I want it to be done properly, and I want he should have every show, and, for one, I want to consent to give him just the methods by which he wants to proceed.

Mr. Wagner — Mr. President, I should like to ask the distinguished delegate from Saratoga whether that has not been a

recognized procedure in our legislative bodies? That one may give way to a member either for a statement or for a question?

Mr. Brackett — I think it has. And I, for one, gladly concede it.

The President — The Chair cannot give his assent to the proposition that any member of the Convention has the right to farm out the privilege of the floor. The right to yield for a question is well settled. The right to yield for a statement is not equivalent to yielding for the purpose of argument. The statement is to be incidental, a correction or a presentation of a fact which is relevant to the proceeding. There need be no difficulty, however. The Chair will recognize Mr. O'Brien, and upon the conclusion of his remarks will recognize Mr. Wagner. Mr. Wagner can then take the floor in his own right, if he desires.

Mr. Brackett — A single word in response to the suggestion of the Chair. Undoubtedly the Senator from New York, Senator Wagner, has no right to farm out his time or his right to speak, but, having the floor and the right to speak, he has the right to state the conditions under which he yields, and if the Convention does not care to accede to his desire, he then has a right to proceed without yielding, I suppose.

The President — Senator Wagner has the floor.

Mr. Wagner — Mr. President, I hope that the motion I made to disagree with the report, the adverse report, of the Committee on Legislative Organization and Powers will be carried by this Convention, for the amendment by Judge O'Brien has the effect of eliminating from the present provisions — from the present Constitution those restrictions restricting and limiting the representation of the city of New York.

The question of reapportionment, which is undoubtedly involved in this question, touches the foundation absolutely of our free institutions. It involves our most sacred traditions. For an apportionment of the members of the State Legislature is nothing but an allotment of representative government to the various sections of the State, and therefore it should partake of the solemnity, the sanctity and the equity demanded by the historical principles upon which our government is founded. We must discuss this question in the light of certain ideals and definitions which we should keep continually in mind throughout the entire consideration of this subject. A constitution may be defined as a body of rules or maxims, unchangeable except by the people, according to which they consent to be governed and in harmony with which they desire to live. It is, therefore, incumbent upon you to submit to the people an apportionment provision based upon justice and to which they will consent as a permanent standard for measuring their voice in the government of the State.

For a definition of representative government I shall quote Judge Chase of the Court of Appeals writing the opinion in *Sherill* against *O'Brien*, 188 N. Y. 185, where he says: "In a true representative government, every person should be equally represented in its legislative bodies. Exact representation requires that every Senator and every Assemblyman shall represent the same number of people."

It is therefore further incumbent upon you as the draughtsmen of the people to submit to them an apportionment article which recognizes the equal rights of the people, be they in the minority or in the majority, be they urban or rural, be they Democrats or Republicans, or Progressives or Socialists, or what not.

If I am a judge of public sentiment, I believe that this body is charged, by a clearly expressed public feeling which cannot be disregarded, with rectifying the injustices and inequities resident in the apportionment provisions of the present Constitution. The people of the city of New York, too long deprived of fair representation, are watching with grave concern the proceedings of this Convention. There the public press has uttered a continuous protest, as we have all read from time to time, against the present provisions of the Constitution, limiting their representation. There the entire citizenship has voiced a demand for representation which in the past has been denied them. If this body rejects its claim, the city of New York will just as surely reject, with an overwhelming vote, the work of this body. If the delegates from the city of New York betray the trust imposed in them by the citizens of New York, the people of that city will spurn their efforts and will heap upon them the condemnation which they will have so justly merited. Thus far in our proceedings, I regret to say, the protest from New York has received little consideration, for with the boldness of a Captain Kidd your Committee has favorably reported a Proposed Amendment which strengthens instead of eliminates the discriminations against our city, by providing that all five counties of the city together, no matter how much their population shall increase, at some future day, be it 8,000,000 in the city and 4,000,000 in the rest of the State — the city shall never have more than one-half of the representation in the State Legislature.

Mr. Schurman — I wish to make a correction in the names of committees.

Mr. Wagner — I yield for the purpose of making that correction.

Mr. Schurman — The report before us is not from the Committee on Legislative Organization and Powers as the gentleman from New York stated in the beginning of his remarks. There

are two committees, one on legislative organization and the other on legislative powers. This report is from the Committee on Legislative Organization.

Mr. Wagner — Well, that is true; I meant just the one committee. I thank you for the correction.

The proposal of the Committee on Legislative Organization, to which I have just referred, I believe is so contemptuous that this Convention, composed of men of the character of those that are here, I am sure will reject it and send it back never to return.

Let no man in this Convention say that the people of New York in this protest are desirous of segregating themselves from the citizenship of the rest of the State. They are proud of their State and they want to share equally with all other citizens in its protection and in its privileges. But the present unfair apportionment provision in this Constitution has had the effect of segregating and antagonizing them as against the rest of the State and that is something which we should all desire to eliminate in the future. There is no desire in that city for constitutional benefits which are not secured to the entire State, and the Proposed Amendment introduced by Judge O'Brien and for which I am now pleading has the effect only of putting all our citizens, whether they reside in Saratoga or in New York city, upon an equal footing.

There is in our great State no spirit of provincialism or antagonism, as I said, to the rest of the State but there is a well-founded impression which, let me say, is entirely justified in looking over the history of the past twenty years, that the last Constitutional Convention discriminated against the people of that city and effected a ruthless despoliation of the rights guaranteed to them by the most primitive ideas of a republican form of government, and this feeling is not one of aggression or self-aggrandizement, but is one of bitter resentment at the discrimination against its people and we delegates from New York — and when I say "we," I am speaking about those with whom I have conversed upon the subject — we delegates from New York are here appealing to the delegates to this Convention to obliterate those unfair provisions from the Constitution and put us all, wherever we may reside, upon an equal footing. I say that the delegate here who engenders this feeling of conflict between the citizens of New York and the rest of the State is lacking in justice and honor, is devoid of patriotism, and is putting public good away as against shameful, partisan, political expediency.

Now, what are the provisions of the present Constitution to which we from New York object? The provision that no county shall have more than one-third of all the Senators and that no

counties which are adjoining or separated by public waters shall have more than one-half of all the Senators; the provision that each county shall be entitled to an Assemblyman, regardless of population; the provision that no county shall be separated in the formation of a Senate district except to make two or more Senate districts wholly in such county. These provisions are aimed at the city of New York. If there is any one who cannot gather such an intent in the very words of the Constitution, I take him back to the Convention of 1894 where in this Chamber the outrage was perpetrated with foreordained precision. The Committee on Legislative Organization of that time with a numerical superiority, as it is now, in favor of those policies of the Republican party, to which was referred the apportionment article of the present Constitution, hardly dignified the amendment with any deliberation. It had been predestined for passage from the moment of its introduction. It was conceived in partisanship, nurtured in partisanship and accelerated by partisanship through the Convention with a haste that was not only unprecedented but undignified.

The measure came before the Convention for debate on September 4, 1894. One of the delegates, William Church Osborne, rose in his place in this Chamber and said in reference to this proposal: "There is not a line in this bill that has been prepared with the idea of securing popular representation. The whole object of it is to maintain the present balance and preponderance of the rural communities of the State against the city, and it has been said time and time again by the proposer of this amendment and the chairman of that committee that that was their object, their sole object and their only object."

The Record of the Convention discloses no answer to that charge; it stands upon the Record uncontroverted. No justification, no excuse, no palliation was attempted for the sacrifice of democratic principles upon the altar of political expediency, and the vigorous protest of the minority was disregarded, and some of the men here who were members of that Convention will testify that the protest of the minority was vigorous. The voice of reason, why, the voice of reason was unheard in this mad desire to secure this political advantage and the rule of discrimination was forced into a Constitution which purports to be a guarantee of an equality before the law. Members, as I said, of this Convention, who were members of that Convention, will bear out what I have said about the discussion upon that particular question. And yet, in the face of these facts, we have now in general orders, reported favorably by a committee, a proposal which aggravates the present discriminatory provisions.

How repugnant to the ideals of our country are these gerrymandering provisions; how inconsistent with justice, how destructive of true government, how defiant of popular will! This Convention could do no nobler or more patriotic act than to disregard the adverse report of the Committee and adopt Judge O'Brien's Proposed Amendment, thus turning their backs — men of high character and standing turn your backs to shameful partisanship!

Chief Justice Morse of Wisconsin sounded a warning when he said in a case involving a gerrymandering provision like this: "I believe that the time for plain speaking has arrived in relation to the outrageous practice of gerrymandering which has become so common and has so long been indulged in without rebuke that it threatens not only the peace of our people, but the permanency of our free institutions."

The extent to which the will of the public is thwarted and popular representation destroyed by such a gerrymandering as is fostered by our Constitution is evidenced from the experience of this State.

In 1884 the Democrats carried the State. Was there a majority representation of the Democrats in the Legislature of the State? The unfair result was worked that with the majority of the people supporting the Democratic party, there were in the Senate 19 Republicans and 13 Democrats, and in the Assembly 73 Republicans and 55 Democrats. In 1885 the Democrats carried the State of New York by 11,000, and yet in the Senate there were 20 Republicans and 12 Democrats, and in the Assembly there were 71 Republicans and 49 Democrats. In 1887, the Democrats were again successful at the polls by 17,000, and yet in the Senate, supposed to be constituted on a basis of equal representation, there were 21 Republicans and 11 Democrats, and in the Assembly 72 Republicans and 51 Democrats. Can any one possibly say that representative government prevails in a State where in the course of four years, although the popular feeling was in sympathy with Democratic principles, the Legislature was Republican by a great preponderance? The apportionment contemplated by our present Constitution is absolutely discordant with the idea of popular representation.

As I have quoted from Judge Chase, exact representation postulates that each legislator shall stand for as near as possible an equal number of people. Supplementary to this expression of judicial opinion and of a similar strain are the words of Judge Peckham in *Baird against Supervisors*, 138 N. Y. 95, in which he says: "As each man or citizen was equal before the law and entitled to the same privileges as any other citizen, it is also plain that the basis of a division would be according to numbers and

thus each citizen obtain or retain an equal weight in the affairs of the State as far as his civil rights or privileges were concerned." And that is exactly what we are pleading for here.

Now let us see how popular representation is exemplified in the Legislature of this State — and I know that figures are tiresome, and yet, in order to prove our case, we must go into the figures involved in this question. According to the census of 1910, the population of the city of New York was 4,766,833; for this population New York city has 21 Senators and 63 Assemblymen. The city has one Senator for every 218,000 persons, and one Assemblyman for every 76,000 persons, approximately. The population of the rest of the State was 4,346,777, which allowed one Senator for every 148,000 and one Assemblyman for every 50,000, approximately. The average New York city Senate district, therefore, exceeds the average upstate Senate district by 70,000. In the Assembly the excess is about 25,000. In 1914 the population of New York city was 5,583,871, as against 4,540,719 for the rest of the State, or an excess of over 1,000,000 in favor of New York city.

Mr. Parsons — I ask if it was the population of the cities or the total population?

Mr. Wagner — Total population.

In 1920, it is estimated that the city will have 7,000,000 and the rest of the State 5,000,000 inhabitants; and yet the strange anomaly exists in a supposedly representative government that a community having nearly 60 per cent. of the population should be represented by less than 45 per cent. of the Senators and 42 per cent. of the Assemblymen. If representation in the Legislature were based upon population, New York city would have 28 out of 51 Senators, and 83 out of 150 Assemblymen, while in 1920 the city should be entitled to 31 Senators and 90 Assemblymen, — and I am speaking ahead because this provision of the Constitution is destined for twenty years, if it creeps into the present Constitution again. The present representation of 21 Senators and 63 Assemblymen, compared with the legitimate representation of 28 Senators and 83 Assemblymen, shows that New York city is deprived of nearly one-third of the representative strength in the Legislature of the State. Yet men call this government by popular representation! You may quibble long and learnedly about these matters, but you cannot escape the clear conclusion drawn from figures. In those figures is written the extent to which we have deviated from the theory of popular government, the degree in which the greatest city in the world is injured, and the manner in which pernicious politics has frustrated the will of the people and the ideals of our country.

The underrepresentation of New York city and the overrepresentation in the Legislature of the rest of the State is strikingly apparent from a comparison of the figures. Assuming that the city of New York has one Senator for every 218,000 persons, what a discrepancy there is between that figure and the representation of the Forty-seventh Senatorial District, comprising the counties of Niagara and Orleans, which has a Senator for 124,000; the Forty-third District, comprising the counties of Livingston and Steuben, with a population of 121,000, over a hundred thousand less; in the Thirty-third District, comprising the counties of Warren, Essex and Clinton, with a population of 114,000, over a hundred thousand less; the Thirtieth District, comprising the counties of Saratoga and Washington, with a population of 110,000, over a hundred thousand less than in the average district in New York city; and in the Forty-fourth District, comprising the counties of Allegany, Genesee and Wyoming, with a population of a little less than 110,000, over a hundred thousand less. In comparison with these Senatorial districts the average population of the New York city district is almost twice as great, and it is the natural conclusion, unerring, because deduced with mathematical certainty from cold figures, that the inhabitants of those districts have twice the representation in the Legislature of the State of New York that the people of New York city have. Take every Senatorial district in the State and compare with the average Senatorial district of New York city and you will find that those districts fall short in population of the average New York city districts by from 20,000 to 110,000 persons. The Twenty-sixth Senatorial district falls short by 68,000; the Twenty-seventh by 73,000; the Twenty-eighth by 96,000; the Twenty-ninth by 96,000; the Thirty-third by 104,000; the Thirty-ninth by 94,000; the Fortieth by 95,000; the Forty-second by 97,000; the Forty-third by 97,000; the Thirty-third by 104,000; the Forty-fourth by 107,000, and the Thirtieth by 108,000.

In the Assembly the same unsymmetrical representation prevails. The average New York city Assembly district contains 75,665 people. Through the rest of the State the Assembly districts contain populations as low as 14,000. Putnam and Schuyler have 14,000; Yates 18,000; Tioga 25,000; Lewis 24,000; Schoharie 23,000, and so on. The average New York city district exceeds the average upstate district by amounts which are startling and incredible to one who has not examined the figures. The excess over the Assembly district of Chenango is 40,000; of Cortland 46,000; of Lewis 51,000; of Schoharie 52,000; of Yates 57,000; of Schuyler and Putnam 61,000.

These figures refute the opinion that there is any equality of representation in the Legislature of this State. Their force is

irresistible, even though based upon the census of 1910. In the year of 1915 the estimated population of the State, the increase in New York city, and the decrease in the rural sections, re-enforce the argument of these figures, because, with the advance of time, the hiatus between the unit of representation in New York city and the rest of the State has been widened and will be widened until the figures speak in overwhelming language the inequality and the discrimination which we have tolerated in our Constitution.

When the present Constitution was adopted in 1895, the population of the State was approximately 6,500,000; in 1910 it was 9,110,000; the increase has been about 2,600,000. In 1920, the State will probably contain 11,900,000 persons.

My attention has just been called to a discrepancy between New York city and the upstate which is emphasized, when we take the county of Queens with one Senator, and a population of over 300,000, as against Saratoga with less than 110,000. The percentage of the State's population which to-day resides in the city of New York will in 1920, if the past is a true indication of the future — if the advance since 1910 is a true indication of the future, it will grow even to a higher percentage. Under the constitutional provision, however, the rate of representation does not correspondingly increase. You may increase until you have 90 per cent. of the population of the State in the city of New York, and still you say you shall never have more than one-half of the representation in the State Legislature — and this is a government of the people. Let New York city increase in population as it did in 1905, in 1910 by nearly 1,000,000, let the upstate counties in the same period of time decrease in population, as did Allegany by 2,000; Lewis by 1,800; Otsego by 1,000; Schuyler by 1,100; Tioga by 1,300; and Sullivan by 1,000; let the discrepancy between the population of the respective communities decrease as it has done in the past, but we must tolerate the unfair and arbitrary provision which restricts our representation and converts the majority of our people into an impotent minority.

Against the argument for exact numerical representation will be urged many contentions, chief among which is the theory that territory or geographical extent should be an element upon which representation should be based. That idea is not consonant with our idea of a republican government. It is suggestive of feudalism, and of the time when the landed proprietor controlled the destinies of state. This State of New York is not a government of lands, nor of money, nor of property. It is a government of persons equal before the law, regardless of their lands or their

property. And without receding from the contention that an exact representation should prevail wherein each legislator should represent an exactly identical number of persons, it would be enlightening, however, to consider the wealth, the business interests and the taxable values of New York city, not as a basis of representation but merely as a further argument that every person in the city should have the same voice in the government as every person in the country.

The assessed valuation of the real estate in New York is \$7,861,898,890. That is over 16 per cent. of the entire taxable realty in the United States. In New York State the assessed values amount to \$10,900,260,883. New York city, therefore, has about 73 per cent. of the taxable real estate of the State, and, therefore, contributes 73 per cent. of the entire expense of government.

What a strange and unjust result is effected by our Constitution!

New York city has nearly 60 per cent. of the population.

New York city pays over 73 per cent. of the expenses of the whole government of the State.

New York city has 40 per cent. of the representation in the Legislature.

I do not think that any one will disagree with me when I say that in principle, at least, the city of New York is discriminated against by the apportionment article of the present Constitution. Does any man in this Convention think that actual detriment has not come to New York city because it has not been adequately represented in the Legislature? I do not intend here to rehearse the various grievances, the various discriminations and the various laws which have been forced upon New York city, and against the protests of its representatives in the Legislature, but it would be interesting to go over a few of them.

Had the city of New York, however, that representation to which it is rightly entitled, we should have no such injustice as was effectuated when the Public Service Commissions Law compelled the city of New York to maintain at its own expense the Commission of the First District and to contribute 73 per cent. of the expense of maintaining the Commission of the Second District; when the Election Law provided a signature test must be imposed upon residents of New York city, but the rest of the State must be relieved of the inconvenience, and the representatives from upstate sections made no pretense at having it State-wide in its application; they said, we won't stand for it for our citizens but you must take it; and when the Liquor Tax Law provided a tax of \$1,500 to be paid by residents of New York, and

some varying from \$150 to \$800 or \$900, to be paid by the residents of the rest of the State, there was an injustice done the city of New York; also, when the various State aid laws, by which the State contributes millions of dollars annually to the expense of town roads, using since 1898 about \$15,000,000 and last year appropriating about \$2,000,000 for that purpose, and compelling the citizens of New York city to contribute 73 per cent. for a purpose which is of no benefit to them individually or collectively, although they are obliged to bear the entire expense of 23,000 miles of streets within the borders of their own city.

Does any member of this Convention believe that the direct tax law of last year, passed this last session, for which New York city is assessed about fourteen millions, would be passed if the Legislature of the State of New York were constituted upon a basis of justice and popular representation? Can it possibly be conceived that the aldermanic gerrymander of last year would have passed the Legislature if the interests of New York city had been protected by sufficient representation therein? And yet these are only a few of similar injustices which I could narrate indefinitely.

If you reject the Proposed Amendment which is now before us, and which eliminates from the Constitution the unjust and discriminatory provisions against the city of New York, and instead either adopt the offensive new proposal now in the Committee of the Whole, or leave the present vicious provision in the Constitution, no other conclusion can be drawn from your act than that you want to proclaim in boastful tones, as one or two members already have, your contempt for the citizens of New York.

In the consideration of these matters one must inevitably ask what reason or color of reason is there for thus discriminating against the great city of New York.

Some men may make bold enough to say, for it was urged in the last Convention and the suggestion has been since reiterated in the quiet and underneath the tables, that the control of the State should not be centered in a community which has a large foreign population. That was actually urged in the last Convention as one of the reasons for this provision. To those men, if there be such in this age of enlightenment, I say, with utter contempt, that the days of the Know-Nothing Party have gone forever from this land.

The foreign-born American contributes to our best citizenship. He has helped to build up this country to its present industrial and commercial supremacy. He has defended this country to the utmost in the past and to-morrow — God forbid that that may

ever come — if his services are required — and I am speaking as a foreign-born citizen myself — if his services are required by our country and my country, he will be found shoulder to shoulder with the native-born, fighting with courage, with patriotism, and with self-sacrifice, the battles of the Stars and Stripes and of the country of his choice.

Why, I ask again, do you men seek to despoil the citizens of New York of their inalienable rights? Why do you wish to deprive them of that voice in the government of the State which you ungrudgingly concede to those in other sections of the State? Has not New York city shouldered the burdens of the State? Has it not contributed generously to the support and improvement of our State institutions? Not only this State but the entire country owes an incalculable debt to the city of New York. It has built up our commerce, as I stated before, our industries and our finances; it has been first in education, in charity and in reform. It has grown to be the greatest city in the world. It has drawn after it in the path of its progress the State of New York and all the other States of the Union. It has supplied the larger portions of your highway fund and your canal fund; it has built up your agricultural schools; it has helped to make education possible for your children. It has done all these things without complaint, without hesitation, with a generosity diametrically opposed to the spirit which now attempts to deprive them of just representation.

I recall, on the opening day of this Convention, the inspiring and learned address by the President of this body. Particularly I remember the high sentiment which found expression in the following words:

“To secure the equal rights of every one of the 10,000,000 people of the State of New York is the end and the object of all that we are to do. * * * The individual citizen cannot rightfully be deprived of those rights by legislatures or executives or majorities or armies.” Let not the majority in this body attempt to do wrongfully what armies, executives, legislatures cannot rightfully do. Let not the majority in this body extinguish the lights of political morality and in the dark consummate the malice that was contemplated by the present provision of the Constitution. Let not the majority in this body forsake the ideals of Democracy which secure equal rights to every one, as the President said in the opening, to every one of the 10,000,000 people of this great Empire State.

I appeal to you, fellow delegates, whom I hold in such high personal esteem, to rise, to rise above partisanship in this most important and tremendous task that now engages our time, our energy and our thoughts. I believe your sense of duty, which I

know is your sole guide, will prompt you to reject and eliminate the provisions of the present Constitution and adopt the proposal offered by Judge O'Brien and now under consideration. I believe that your conscience, your fidelity to the people of the State, will prompt you to do this. And to you who presides over this body, bringing to it the vast experience and great qualities of mind which you have developed in the highest planes of political and legal activities, you who have freely given your services and your learning to the State and to the nation, so that for all time you are inseparably identified with their history, you who have so honorably and ably fulfilled all the important trusts imposed in you in the past, you who intimated in the opening of our Convention that this would probably be the last great office you expected to be called upon to fill, I plead with you that in this closing epoch of this glorious and wonderful career, you will use your power and your influence not to mar that great record by the adoption of a provision unjust or unfair to the people of the city of New York, but that instead, the closing epoch in this glorious career of which we are all so proud will be marked by triumph for justice to the citizens of New York city.

Mr. M. J. O'Brien — I shall endeavor, gentlemen of the Convention, in the few moments that I shall trespass on your attention, to impress you with the conviction that I have, born of study and consideration, that the principle involved in this discussion is far-reaching, because it affects a principle of representative government.

I trust that in the few moments that I take, I shall always keep in mind that this is not a political convention, that we are not here for the purpose of gain for party, and that I am addressing men who I know from their public careers are fair-minded and open to the consideration of argument that can be presented on the merits of any subject. And I shall leave the field of politics and partisanship, presenting the expressions which I desire to present upon a subject which I regard of paramount importance. And I feel at greater liberty to do this because I feel that all of us, notwithstanding it has been in the Constitution for twenty years, have had but little opportunity to think over its far-reaching effects.

When that provision was placed in the present Constitution, it was at the end of the last Convention of 1894. It came in the form of an amendment. Its merits were not then discussed. Since that time, twenty years have passed, and the situation that might have given rise to the evils that might flow from the omission of such a provision in our Constitution are not now existent. You will notice that the principle involved is that the present Constitution of this State provides that no county shall have more

than one-third of all the Senators, and that no two counties or territories thereof, as organized in 1894, adjoining or separated only by waters, should elect more than one-half of all the Senators. The viciousness and trend of that provision has been of no material advantage, so far as representation is concerned, to either party, because whatever advantages have been obtained, as has been suggested by my friend and colleague here, Senator Wagner, have resulted from apportionment. I am not speaking of apportionment, that is another subject with which the gentlemen of this Convention will have to deal. What I am speaking of is the injustice of placing such a section in the Constitution of this State in the matter of representation, and I say to you gentlemen that upon the merits, this is not only wrong in principle, but it is bad in policy. If it is wrong in principle, it should be rejected and not continued in the Constitution. If it is bad in policy for either party or for the whole people of the State, then it should be rejected. So I say, upon the ground of principle, which I will take up first, that in the very Declaration of Independence, one of the grievances that the people of this Colony formulated in that immortal document addressed to the King, giving the reasons why we revolted, is, "He has refused to pass other laws for the accommodation of large districts of people unless those people would relinquish the right of representation in the Legislature, a right inestimable to them and formidable to tyrants only."

That was followed by the Constitution of the United States, Article XIV in which it is stated in the first section that, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." And in the second section, "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State." What says our own Bill of Rights, the New York State Constitution, in its first article? "No member of this State shall be disfranchised or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers." Of course we all know, all who are lawyers, and all the gentlemen of this Convention, that by the law of the land is meant the common law of this State.

Now, reference has been made to the construction which our highest courts have placed upon this provision in the Bill of Rights, and reference has been made to Judge Chase — I speak of him in a Convention like this because he happens to have been, before he was elevated to the bench, a splendid Republican lawyer and

gentleman, and he says in the Sherill case, to which allusion has been made, "The quotations that we have made from our first Constitution and from subsequent amendments thereto and changes therein show that equal representation in proportion to population has been the cardinal and underlying principle."

It was held in the case of the People, *ex rel.* Baird v. Kings County, 138 N. Y. 135, that the policy of representation by towns has never been adopted or practiced in this State. From the earliest period of our State history, the leading idea has been that the Legislature was to directly represent the people, not the town or other quasi-political corporations contained within the State itself. "Here we have always had as a State the principle of direct representation of the citizen, not the representation of him through a corporate body."

Now, I have introduced an addition to this amendment which I have suggested as to counties and I will tell you gentlemen frankly why that was put in. It is a provision to strike out the provision with reference to county lines. I say there is no sanctity about the boundaries of the political divisions of this State. Congressional and Senate districts are changed in area every few years, and the point in my mind, and the viciousness of the principle embodied in this provision of the Constitution, is in attempting to make a separation between the people of this State when we are one in mind and in spirit and in heart, for all that makes for the prosperity of this great Commonwealth. Why should there be placed in any instance a provision which should attempt to create an antipathy which does not exist? I should hate to feel that I or any man within the hearing of my voice has any feeling of antipathy for any other because he was a resident or one of the population of either a rural or an urban community.

Need I say that in the development of this State, with the railroads, with the increased facilities of communication, we have come closer together? Twenty years ago, the differences that marked the various portions of the State were more distinct than we have them to-day. In political life, heretofore, the Legislatures elected United States Senators and it was thought proper that in that matter there should be locality representation. We no longer elect United States Senators by the Legislature, but it is done by direct vote of the people.

And so with respect to our State government: The argument is made, and the only argument that has been made for it, is that there is danger or a menace of some kind in the possible dominance of one great section of the State. That thought is unworthy of those who will stop for a moment to think of the common interest which every section of this State has in our Commonwealth. You

take the city of New York, against which this discrimination is made. Let me ask you, gentlemen — I was born in that city. Am I entitled to the credit for its upbuilding and for its prosperity? I have had some small part, but it has been but slight, but a drop of water in a great ocean. So it may be said of others like myself who were born in that great metropolis. It has prospered, it has been built up, it has been made the great financial center of this country. Why? Because it has had the contributions from every county of this State; because many of the best men of our State have come there and made it their home. And what is true of some of the best men of our counties — and I am not speaking in any invidious sense; I mean many of the best men in a business way, who have come there to help us, to work the commercial supremacy of this great country, are there working in that great center. So we have had contributions from every State in the Union, of men who have come there to make it their home and to unite with us in developing the commercial and financial supremacy of this country.

And I ask you gentlemen, is it a spectacle to be proud of? Is it a thing that we would boast of, to say to those who were not born in that city, who have come to help us, that by reason of our location, we are suspected and might become a menace to the prosperity of the rest of the State; that we who are endeavoring, each in his own way, who are in sympathy with every project that would help any other section of the State — we could not have made that the great commercial and financial center, if we had the thought, even from a selfish purpose, of doing aught that would injure any other section of this State? That great metropolis is but an example of the splendid spirit that exists throughout the entire Commonwealth. And you gentlemen, who come from other parts of this Commonwealth, you know as well as I do, that in the twenty years that have passed, the lines of locality have been practically wiped out, we have been brought closer together, we are now working together in this Convention, not for the purpose of securing an advantage to any particular place, not with the idea that through representation we will be in a dominant position and gain some advantage, but for the whole State. For myself, I say that I do not place any importance on the question of whether we shall have in New York City one or two more Senators or one or two more Assemblymen; I care nothing for that, but what I do care for is that there should appear in the Constitution, and should rankle in the hearts of our people, a feeling that without any just cause, without having committed any political crime, a large part of our people should be disfranchised. We are working with you, and there has never been any evidence in this Convention, I am sure,

that on all the great subjects which have been presented here, whether it was in the budget for the purpose of adjusting our finances, or on the other great questions of local government — there has not been any suggestion with respect to these matters that there should be any special advantage to the City of New York by the formulation or otherwise in one way or the other of provisions that are to be placed in this new Constitution.

Why cannot we get over our provincialism? Why cannot we all regard, as I do, every part of this State as "my place," just as I feel about the city of New York? I never come to this capital city, I never go to that splendid summer place of the Senator from Saratoga where I spent many summers, and where I first met him more than thirty years ago, I never go to the great Lake Champlain or the other parts of the State that I do not feel that they are mine. I have made my home at times in different sections of this State, and I tell you, except in the language of this Constitution, there is no feeling throughout this State as against the city of New York. I say it will never be of any material advantage to either party to keep that provision in the Constitution. It is, however, a breeder of sectional feeling and discontent; it will be a source of trouble as long as it continues to exist. Let me say to you gentlemen another thing: We are living in an extraordinary age, one of unrest and relentless activity. The two dominating characteristics of our time are the dominant city and the militant democracy. We have in these great cities, not alone New York, but throughout the other large cities of the State, the working men and the working women, who make the cities their home because there they get their occupation. The great manufacturing interests are located in and about the larger centers of population. What will happen? Are not the problems which confront us — I am speaking now of those who are concerned with the administration of municipal government — are not the social, financial and political problems which we are grappling with sufficiently onerous? Are you going to leave the cities of this State in a position where the working men and the working women residing there content with laws made by their representatives to feel that they are to have representation curtailed and that the provision in this Constitution will be continued which they regard as a menace and as a threat against their proper representation? And, for that reason, among others, it should be eliminated.

All I can say, in conclusion, upon the subject, thinking as I do that this is wrong in principle and bad in policy, for either party to insist that such a provision should continue in the Constitution — I want to say to you gentlemen that I came here

filled with the thought and the hope that I might be useful, in co-operation with the other delegates to this Convention, in making a Constitution which would be of permanent value to the people of this State. I feel that we have in this body men with the character and ability to accomplish such work. Why should we mar it by a provision which is of no possible value to any one, a provision which is wrong in principle, and bad in policy, and which may mar our entire labor. The months of labor and sacrifice which you gentlemen are called upon to make by attending here will be lost if the final culmination of it in the shape of a completed Constitution presented to the people is only to be rejected by them because of this provision. I say to you that as long as it remains in this Constitution, as long as it is thought wise or best by anybody to permit it to remain, the cities of the State and particularly the city of New York will feel that for some reason unknown to them, without any fault on their part, against their protest they are differentiated from the rest of the State. Anxious, willing and desirous of uniting with every other section of the State in all that would promote the prosperity of this Commonwealth, we think it will leave in the minds of many the thought that their rights must be limited and their strength curtailed.

Remember, after all, that our State is fast growing into one large city. The whole agricultural portion of our State has gotten into very close touch with our cities, and there are no longer differences in the interests of the cities and the country. There is no citizen of any city of this State, who, if he knew of anything that would benefit the farmer or that would benefit any particular section of the State — I am sure that there is no man here from New York who would be found in opposition to anything that would serve, or who would prevent the doing of anything that would help the rest of the State. But, above all, I would like to see the work of this Convention succeed. I would like to see the result acclaimed by the people, and, so far as I am personally concerned, I want to say to you gentlemen here that it will make no difference in my conduct towards the work of the Convention in contributing to its success regardless of the disposition made of this subject. But I submit it to your judgment as fair men, whether it is right to have such a provision remain in the Constitution, and if you reach the conclusion that it is not right, that the time is past when there should be any line drawn between sections of the State and that we can get along without it then by all means eliminate it. It will make no difference to me personally whether you conclude to strike it out or not, because in the end I will co-operate to the best of my

ability to see that the work of this Convention is successful at the polls; but I fear, and I fear it because of the amount of feeling that has been aroused by this provision in the Constitution, that to allow it to continue to remain is a serious menace to its success at the polls. I am very much obliged to you gentlemen. I did not intend to take up so much time.

Mr. Sheehan — The Constitution of 1894, for the first time in the history of our State, contained the following prohibition: "No county shall have four or more Senators unless it shall have a full ratio for each Senator. No county shall have more than one-third of all the Senators, and no two counties or the territory thereof, as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the Senators."

The resolution reported from the Committee on the Legislature and Its Organization clothes with a minimum of respectability the wrong of 1894, for we now have the proposition that the city of New York, whatever its population, and regardless of how many counties may be within its borders, shall not have more than one-half of all the Senators and not more than one-half of all the members of Assembly. The amendment of 1894 was a limitation upon the legislative representation of two adjoining counties. The proposition of 1915 is a prohibition against adequate representation in five counties located within the greater city.

In 1890 the population of this State was 5,997,853. In that year the territory now known as Greater New York had a population of 2,533,597. In 1910 the population of the entire State was 9,113,614, and of this number there were in the territory of the greater city 4,764,883, equal to 52 per cent. of the State's total population. Based on the same percentage of growth, the population of the entire State in 1920 will be 11,535,588, and the population of the city of New York 6,604,128, equal to 57.2 per cent. of the total population. On the basis of the 1910 population the city of New York would now be entitled to twenty-six Senators instead of its present representation of twenty-one. In 1920, based on the figures last mentioned, that city would be entitled to twenty-nine Senators.

The total assessed valuation of personal property and the equalized value of real estate in the State in 1914 was \$11,385,137,127. Of this total, New York city's share was \$7,886,497,549, or about 70 per cent. of the new direct State tax for 1915, and the balance of the State 30 per cent. This does not include the moneys collected by the State in the city of New York from the operation of the Transfer Tax Law, the Stock Transfer Law, the Corporation Tax Law, the Mortgage Recording

Tax Law, and the Excise Law. The proposition under discussion is defensible, if at all, only upon the theory that legislative representation by majority rule is wrong and should be prohibited. Those who favor this proposal may draw all the fine distinctions possible between the advisability or justice of territorial representation and representation based upon population, but the ugly fact still remains that the amendment of 1894 was grounded in a desire for partisan advantage and in distrust of the people.

We hear nowadays that all men are or should be equal before the law and that this shall be forever so is the real motive power behind the great twentieth-century movement for equal rights and equal opportunity. From every side and from all political parties we have the demand that the voters shall more actively participate in the affairs of state. Most of us will probably agree that the perpetuation of our form of government is dependent upon the full awakening of the public conscience and the determination of patriotic men to maintain a genuine representative government that shall have for its foundation-stone a written Constitution that denies no right and bestows no gift except that which is common to all. "Trust the people" is a popular cry. It has fallen from lips of men pure and unselfish; it has also been the shibboleth of the demagogue and the trickster. Those who use it most blatantly are often the ones who foully betray it in secret. But notwithstanding all the crimes that have been committed in the people's name, there is not a delegate in this Convention who does not look hopefully to the day when the people of the State can be depended upon to act intelligently and decide wisely and patriotically every question that may be properly submitted to them.

I know the distinguished chairman of the Committee that reported this proposition adversely believes in trusting the people. With him this is no lip-belief — it is conviction and it is the conviction of a strong and resolute character. Whether we agree with him or not we all recall his recent utterance that the people of the State can be depended upon to elect better men to public office than any Governor could appoint. Holding so strongly to this belief, I am at a loss to understand why he is unwilling to give members of this body and others resident in the city of New York the same equal right in selecting members of the Legislature as that which he enjoys and exercises in the city of Saratoga Springs. In the selection of Senators and Assemblymen why, I ask, should his ballot have more weight than mine? Why should his ballot count for more in Saratoga county than the ballot cast by the President of this Convention in the city of New York?

The political party represented by a majority of the members upon this floor fought for and has attempted to maintain the political equality of the black man with the white. Why should the white man resident in New York city be deprived of a right which you have guaranteed to the black man throughout the country? If the people of the State, each man standing on an equality, can be trusted to act intelligently and patriotically in electing a Governor, a Lieutenant-Governor and other officers, why cannot the people in like manner and upon the same terms of equality be trusted to elect Senators and Assemblymen? Your answer is that territory and not the majority of the people shall rule. Your answer is that this State has grown under divisional and county lines and that, while equal manhood suffrage is proper in rural communities, it is a duty to abridge it in the great city of New York. Your answer is that Senators and Assemblymen in the city of New York are responsible to a single Democratic leadership, completely ignoring the fact that no Democratic leader ever cracked the whip of legislative party solidarity more effectively than has the leader of the Republican organization in the city of New York. Your answer is that rural communities which stand still or go backward in population should be rewarded and that the city of New York, because it has grown great and prosperous, should be punished. Your answer is that the counties of Allegany, Chenango, Clinton, Columbia, Essex, Greene, Lewis, Livingston, Madison, Oswego, Otsego, Putnam, Schoharie, Schuyler, Seneca, Sullivan, Tioga, Washington and Yates, each with a population greater in 1875 than in 1910, will continue to have equal or greater representation in the Senate and Assembly than localities which have since not only doubled but quadrupled in population. Your answer is that this flagrant act of injustice must be continued because the last word on constitutional rights was said when the last Republican State Convention declared in favor of continuing this wrong. Your answer is that Senatorial districts in the city of New York with a population of more than 300,000 souls are entitled to only the same representation as the Thirtieth Senatorial District comprising Washington and Saratoga counties, with 109,695 people. Your answer is that the great county of Queens with 284,000 population shall be limited in Senatorial representation to one Senator while the same representation is given to the thirty-one Senatorial districts outside of the greater city with an average population of 140,000. Your answer is that it is right that the city of New York with 52 per cent. of the population shall have but twenty-one Senators while the rest of the State shall have thirty. Your answer is that in 1920 when the city of New York will have 6,604,128 population, and the

balance of the State 4,931,460, the minority shall govern the majority. Your answer is that the representatives of a minority of the people shall have the right to tax the majority for the enrichment of the minority. Similar answers were made in 1894 in justification of the wrong then committed, but the real reason for the deed was that it was desirable to have a Republican vote in the country counties count for more than a Democratic vote in the city of New York. By restoring the Constitution to where it was prior to 1894 this Convention will escape a similar charge. Were I to ask the gentlemen responsible for this measure if they believed in curtailing the growth and prestige of this State their answer would be a decisive "No." I know no one of them would consciously surrender the place of honor that this imperial Commonwealth holds among her sister States, but I call upon you to witness the fact that this leadership would long since have been surrendered had it not been for the growth of the great city of New York. New York city, it is true, has grown largely as a consequence of foreign immigration, but our rural communities have also swelled the tide. So, I ask, why should upstate representatives punish a city that harbors with hospitable hands their sons and grandsons, and why should you want to punish your own offspring by lessening their political rights while you selfishly increase your own? In taking counsel here for the good of those we represent we can at least be frank with one another no matter how much we may disagree on political questions beyond the portals of this chamber. We know that envy is a human vice which for all ages has corroded and dwarfed the proper and God-like development of man. It has been the juggernaut that has destroyed nations. It has set the universal world in mortal conflict. Let us not think that its poisonous liquid has not entered the veins of our own people. Because New York city is great and powerful, it is envied, and, I am sorry to say, hated by some sections of the country.

That which we have others would seize for their own enrichment. For years we have witnessed men in public life devising, or attempting to devise, plans by which the strength and influence of this great city could be diminished. Should we not appreciate that this city cannot be injured without equal injury to the balance of the State? I know that the men north of the Harlem river would join hands with their brothers of the greater city in opposition to any Federal governmental curtailment of the rights and prerogatives of the metropolis, but in order to resist it successfully every man in this State, regardless of political belief, should be enlisted. But should we do injustice to five millions of people within our own borders, can we complain of injustice at

the hands of those who are not of our sovereignty and who look upon us with envious eyes? If in times of peace a sovereign state speaks in terms of inequality, will she receive the aid she seeks in times of peril? If in a written Constitution we guarantee equality to all men, and in the same breath destroy that equality by giving one man a privilege denied to his equal, how can we in the halls of Congress and elsewhere proclaim the doctrine that no law shall be passed that has for its purpose the curtailment of the rights and privileges of this sovereign State? If we ruthlessly violate the very first article of our Constitution, that "No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers," how shall we be able to raise a powerful and deterrent hand against those who would assail us? In formulating the Federal Constitution, the fathers of this Republic wisely considered the legislative department as the most important branch of government, for the first article of that unapproachable document deals with the legislative power and declares that, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." In the same article it was provided that representatives in Congress should be apportioned among the several States according to their respective numbers; and subsequently, in order to prevent the disfranchisement of the negro and the adoption of such propositions of political immorality as now confront us, the Fourteenth Amendment of the Federal Constitution was adopted to read as follows:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of the State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Who will say that it is not an abridgment of my right to vote for a State Senator, when the vote of my friend, Mr. Quigg, in Columbia county, counts at least twice as much as my vote in New York city?

The spirit, and I believe the letter, of this amendment should have deterred the Constitutional Convention of 1894 from its

wholly unjustifiable attack upon the right of equal manhood suffrage. I believe it will deter the men of this Convention from repeating the same error, if they fully realize the danger which lurks behind the proposal. Every device, Mr. President, known to human ingenuity, has been resorted to in many of the Southern States to hinder or make impossible the free exercise of negro suffrage. Our highest courts have repeatedly placed their stamp of disapproval upon such devices, and within a week the Supreme Court has condemned legislation, as well as constitutional provisions, enacted by Southern States to circumvent the suffrage provisions of the United States Constitution.

While not proclaimed as such, these acts were political, and they were intended to help the Democratic Party in those States, just as the disfranchisement provision of 1894 was intended to benefit the Republican Party of the State. One was as bad as the other.

The Constitutionals of Oklahoma, who consumed so much time in devising ways to circumvent the Federal Constitution, should follow the discussion of this proposition, and if they do they will conclude that they are mere tyros in the art of successful disfranchisement. All they have to do is to herd the blacks in territorial sections of their State, and then provide that those territorial districts shall have the minimum of legislative representation, and their triumph will be complete.

The distinguished presiding officer of this Convention knows from ripe experience the efforts that have been made to secure equality of suffrage in Southern States. He knows, and we know, of the insistent demand from many quarters that if the negroes of the South should continue to be deprived of any of the suffrage rights conferred upon the white man, that the Congressional representation of those States should be reduced. The day may not be far distant when the demand will be pressed in the halls of Congress that the large representation to which our population now entitles us in the House of Representatives shall be curtailed for abridging the rights of the male citizens of this State who are entitled to at least as much protection under the Fourteenth Amendment of the Constitution as are the negroes of the South. It has been said that the Convention of 1894 was greatly influenced to write this prohibition in the Constitution because the Democratic Legislature of 1892 had made an unjust and indefensible apportionment. If that had been true, the correct remedy should have been to ask the people to refuse to continue in power the party responsible for the wrong. A legislative wrong is bad enough, but wrong committed by a Constitutional Convention is much worse. It was not necessary, I submit, in order to right that wrong to commit a more outrageous one. Because the Democratic Legislature of 1892 saw fit to give the Democratic city of New York

representation in excess of what it might have been justly entitled to at the time was no justification for the Convention of 1894 writing into the Constitution that the people of that city should be punished for twenty years because the Legislature of 1892 had committed a wrong.

The answer will be made that the work of that Convention in this and other particulars, was subsequently ratified by the people. That is true. But in order to fully appreciate the conditions that existed at that time, we must remember that the Democratic Party had enjoyed a long reign of uninterrupted power in the State. It had recently been returned to power in the nation. For the first time since the Civil War, the State was represented by two Democrats in the United States Senate. The Wilson Tariff Bill had been placed upon the statute books, and its provisions as well as the methods adopted to secure its passage had been not only condemned by the people but by the Democratic President who apologized for accepting it. Men were thrown out of employment, industrial conditions became demoralized, as often happens after a drastic change in tariff schedules. This was the situation when, for the first time in twelve years, the Democratic candidates for State offices were defeated in the election of 1893. At that election the delegates to the Convention of 1894 were chosen, a large majority of them being of the Republican faith. The Democratic Party was defeated in New York city, and the political power theretofore exercised by it was transferred to Republican hands. The Lexow Committee, and those identified and associated with it, were engaged in feeding the public on the maladministration of the New York city police department. The electorate was prepared in the fall of 1894 to approve anything and everything that spelled opposition to Democracy. It may be that this extreme of partisan bitterness and the desire to again obtain representation, in whole or in part, in the United States Senate, combined, quite unconsciously, to convert the statesmen of that Convention into partisans. But, be that as it may, this body has no such justification for a continuance or enlargement of the wrong then committed.

We must remember that even under all the unusual circumstances to which I have referred, the present Constitution was ratified by less than 84,000 majority, and this particular provision against which we protest was carried only by a majority of 53,000, while the Republican candidate for Governor had a majority over his Democratic opponent of 156,108. In normal times and under ordinary circumstances, that provision, and as a consequence, the whole work of that Convention, would have been repudiated by the people.

This Convention will adhere, Mr. President, as have previous ones, that no legislation shall be enacted, except by the concurrent action of the Senate and Assembly. The present Constitution provides, and presumably the one now being worked out will do likewise, that each of the sixty-one counties of the State, counting Fulton and Hamilton as one, shall have at least one member of Assembly. Thus the counties outside of Greater New York would have fifty-six members of Assembly as a starting minimum to New York city's five, and it would therefore not be possible to prevent the localities outside of that city from controlling a majority of the Assembly. Is not this sufficient answer to the cry that New York city must be prevented from having a preponderating influence in the State? Is not this enormous grant of power to the small and diminishing rural counties of the State a sufficient guaranty that concurrent legislative control cannot pass to the greater city? I fear this proposal will be the rock upon which the labors of this Convention will founder. Why sacrifice, Mr. President, our opportunity to lift great burdens from the people whom we represent, in order to give the minority an advantage that will not last, for no wrong against a majority of freemen will long endure. Hold fast, if you desire, to a minimum of county representation in the Assembly. If this system, which begins with fifty-six upstate Assemblymen against five in the greater city, cannot protect you, it will be because the people north of The Bronx have so dwindled in numbers as to be practically negligible.

How farcical all this agitation, how futile all the literature with which we have been deluged, how grotesque the solemn hearings we have had on the subject of home rule for cities, in the light of the proposition which we are compelled to seriously discuss here to-day! What a travesty upon constitutional deliberation that we are engaged in trying to answer the public demand in favor of home rule for cities, and at the same time resort to every device known to intelligent men to deprive those localities of privileges constitutionally theirs from 1777 to 1894!

I will watch, Mr. President, with much curiosity the roll call on this proposition, for it will be interesting to see how those who have been advocating home rule for cities can square their attitude on that question with a deliberate plan to deny to those very localities legislative representation which is rightfully theirs.

Mr. President, but a few days ago we witnessed in this Chamber the appropriate and impressive ceremonies in celebration of the seventh-hundredth anniversary of Magna Charta. I could not control the current of thought that compelled me to compare the achievement of the Barons at Runnymede with the purpose of

men in this Convention to deny to a free people that which was forced from the unwilling hands of an English despot 700 years ago. If the skeletons of those stout-hearted Barons could now be reanimated with the high spirit and sense of justice that possessed them when they faced the kingly power, with what pity would they not look upon a constitutionally organized body that would celebrate the anniversary of Magna Charta at the very time they were consorting together to destroy majority rule and to establish one weight for the ballot in one section of the State and a greater weight for the same ballot in another section of the State!

What contempt would not those warrior statesmen express for a people, boasting of their freedom, who would willingly submit to such monstrous usurpation of power as is here proposed! What a deadly contrast is presented by comparison of Articles 35, 39 and 61 of Magna Charta with Article III, Section 4, of our Constitution! The Barons of 1215 wrote into that first great charter of English liberty that there should be no discrimination in matters affecting the well-being of the people; that the King should not sell, to none deny or delay, right or justice; and finally, that the Barons should elect twenty-five of their number, whose duty it was to enforce all the rights thus obtained, even to the point of taking the King's castles, lands and possessions.

And then came the written declaration that has ever since been an inspiration to right-thinking men, that has republicanized most of the world, that will shortly democratize the balance of the world — that in case of disagreement among the twenty-five barons the decision of the majority should be binding upon all. Here was reborn, never again to perish, the principle that the majority, and not the minority, of men shall rule. I ask, can this Convention do less for man than an English King conceded to him seven centuries ago? From that document has been spelled the doctrine of justice and equality before the law — equality in representation, equality in taxation — and all these are denied in the present Constitution of this State.

One word more, Mr. President, and I am done. It must be conceded that on the basis of population, New York City is entitled to a greater proportion of legislative representatives than has been allotted to her.

It must be conceded that the greater city is paying and will continue to pay a much larger percentage of State taxes than the remainder of the State. I do not believe it can be successfully argued that the prohibition in the Constitution of 1894 has proven that the finances of the State have improved under upstate control, for since that time State expenditures have increased out of all proportion to the increase in population.

We are all prodigal, whether we be farmers or New Yorkers, of other people's money, but I am sure that many of the rural watchdogs of governmental expenditure would have often stayed the hand of the legislative spendthrift if rural representation in the Legislature had been made the basis of State taxation. When the English government tried to tax our colonies without representation, the patriots at Lexington, voicing the feelings of an outraged people, registered their protest in letters of lead and blood. But the answer will be made that this proposal gives New York City substantial representation. My reply is that taxation without adequate representation is unjust taxation, and unjust taxation has always led, and always will lead, to revolution in one form or another. If this Convention continues the wrong of 1894, it is inevitable that a movement will be started for a division of the Commonwealth and for the creation of a separate State from that portion of it which is penalized because it is great. Personally, I hope all the territory from Lake Erie to Montauk Point will continue to remain subject to the same sovereignty, but you cannot deny justice to a city destined to be the greatest commercial and financial center of the world without starting a conflagration that will irreparably injure those whom you would protect.

I do not believe there is a man in this Convention who has more appreciation of, and more sympathy with, that sturdy and magnificent citizenship that dwells in our urban and rural communities than myself. The best part of my years was spent among them, and in thought and aspiration, I am still of them. Personally, I prefer the slowly-formed and deliberate judgment of the man on the farm, the artisan in the smaller cities and the prudent upstate man of business, to the decisions, often too quickly formed, by some of the inhabitants of the greater city; but when the great principles of representative government are at stake, when the underlying theory of our government that the majority, and not the minority, shall rule, is the issue, when the principle of equality is destroyed, when rank discrimination is attempted by one section of the State against the other, I must, and I do, surrender my personal predilections on the question of the stability or the nonstability of the voters upstate and downstate. Nor is my decision influenced by desire to see the political party to which I belong in control of the Legislature, for my own observations have convinced me that the Democratic Party, in its contests with its great rival, fares better with the people when the legislative power is in the hands of the opposition. I hope the attitude of this Convention will be such that, regardless of political faith, we may be able to join in a united demand for the

ratification of our work. I have sufficient pride to desire that which I have helped to construct made part of the organic law. I want to see it engraved on the imperishable tablets of our State. I will surrender my personal views on many questions to bring about a result commensurate with our opportunities, but I warn this Convention, composed of men worthy of our best traditions, that if this indefensible wrong be continued, the entire work of this Convention may be repudiated at the polls.

Mr. Franchot — Gentlemen of the Convention: Under ordinary circumstances I should hesitate to arrogate to myself at this stage of the discussion the floor upon this or a similar question, but I cannot refrain from rising and taking part in this discussion, in this debate, for two reasons.

I cannot refrain in the first place, because the remarks of the gentlemen who have preceded me, in a sense, throw down to the delegates to this Convention, coming from those parts of the State other than the greater city of New York, a challenge to explain and justify their votes upon this question; and I cannot refrain from engaging in this debate, for the second reason, that in my conception it involves, it reciprocally involves, a question which is inextricably bound up with it; a question which in my judgment is one of the most important and far-reaching in its effects which will come under discussion by this honorable body, namely, the question of whether there shall be made by this Constitution, which we are engaged in preparing, an adequate grant of the right to municipal home rule.

Now, addressing myself to the first of these reasons, why I take my part in this debate, let us first examine exactly how we stand and how the issue is formulated. We find ourselves at present with a Constitution which recognizes and is based upon the fundamental conception that when overwhelming weight of population is concentrated in one community, having common interests which under very easily conceivable circumstances will conflict with the interests of the entire State in matters of State concern, that then the principle of representation according to individual units of population must give way in the interests of a higher principle that is now written into our organic law. I think I am correct in saying that the gentleman who would change that must assume the burden of showing that this provision adopted in the previous Convention and approved at the polls by the people of this State — and I call the attention of the gentleman from New York, Mr. Sheehan, to the fact that it was approved as a separate proposition and it commanded a full majority of the people of all the State, including the people coming from that particular locality, whose right to a dominating influence in State

councils is now in issue — they must assume the burden of showing that this provision of the Constitution is wrong in principle.

Now, in so far as I have been able to determine from conversation with that part of the membership of this body that comes from the greater city of New York, and so far as I have been able to determine from listening to the speeches of the gentlemen who have preceded me this morning, the facts and circumstances which the gentlemen from New York would bring forward in support of their contention, in their endeavor to meet this burden of proof, are twofold:

Firstly, that the city of New York in the last twenty years has developed in property to the extent that it is now paying, under our present system of taxation, a predominating percentage of the taxes of this State; and I glean from the remarks of Mr. Sheehan that they also contend that the development of civic life in New York, the growing respects in which it has become a sociologic and economic unit, render it unjust that they should be deprived of a dominating influence in State councils, when those councils concern, and as a result of those councils enactments are made affecting, its interests and relations, which are practically, and, in certain instances, exclusively matters of city or local concern.

Now, I think, addressing myself to the first of these arguments, that amount of taxes has never — amount of property has never — I realize the magnificence of the word "never," and I will say never to my knowledge, and never, I am certain, within modern times — never has amount of taxes, amount of property, been considered as a proper basis upon which to determine representation in the legislative body of any self-governing community.

The gentleman from New York, Mr. Wagner, in effect, practically concedes this fact. I say in the first place, that the argument, that the statement of fact made by the gentleman from New York, in respect to the paying of a larger portion of the State taxes, must be taken with a certain qualification.

It is true with respect to direct taxes which are based upon real estate values, but I question whether it is a fact that the immediate place of payment of a large part of the indirect taxes imposed by the State is a conclusive argument as to the ultimate source from which that particular tax comes. But even conceding the fact, I think it will be recognized, even by the eloquent gentleman from New York, that it is usually impossible to so formulate the benefits to be derived from moneys derived from taxation in accordance with the particular source from which they came — I think that they will concede that a locality, a particular community is upon exactly the same basis as an individual

with respect to its representation; that inasmuch as an individual is not accorded a greater amount of voice in the government of the State, merely on account of the fact that he happens to possess a larger proportion of this world's goods, so a community which happens to have increased in wealth to a predominating extent should not, for that reason, be accorded a higher or more dominating voice in the councils of the State than those particular sections of the State which are not so fortunate as to be wealthy.

Now, the underlying principle upon which the present provision of the Constitution now subject to debate is based is not merely that one locality in conflict with another locality, with equal facilities for expressing itself, shall be deprived of that particular share in the councils of the State which its relative population would, under the general principle, entitle it to.

On the contrary, we have the community of the greater city of New York set over against what? Not a community of equal concentration, of equal agglomeration, of equal community of interest—not at all—but set up against over a series of other communities, having their own individual interests, it is true, which conflict and may not under certain circumstances be harmonized.

So that the rest of the great State of New York exceeding the city of New York immeasurably in territory does not come to these legislative halls with a united front. It does not come with one single concentration of interest. And it is a proper principle of constitutional distribution of representation in this State that those divided and diversified interests upstate should not be placed absolutely at the mercy of one single dominating community.

Mr. Unger—Will the gentleman from Niagara yield?

Mr. Franchot—Following the example of my friend from New York, Mr. Wagner, I would say I would prefer to conclude my remarks before yielding for the question. Now, gentlemen of the Convention, I propose in the next few sentences to answer the challenge of the gentleman from New York, Mr. Sheehan, with respect to how the advocates of a constitutional grant of the right of local self-government, or the advocates of home rule, can reconcile their attitude upon that subject with their attitude upon the subject of retaining the restriction upon the greater city of New York which now exists in the Constitution.

I meet the argument with respect to the domination of the State in local affairs with a plea of confession and avoidance. I say that the gentlemen of New York are correct in their contention; that under the same principle which we invoke, that they, as a community, should not dominate the State at large in matters

which concern the State at large; that under the same principle and by the same token, in matters which concern the locality itself primarily, the State at large — the Legislature composed of an electorate which constitutes only a minority of the total population of the State should not dominate in local affairs.

I said at the outset that this question which we are now considering upon the Proposed Constitutional Amendment of Judge O'Brien is inextricably and intimately bound up with the question of whether there should be granted to the cities of this State, and to the city of New York among them, the largest safe and practicable measure of municipal home rule. I say that if the city of New York shall not dominate in matters of State concern so also the State of New York, a minority of the electorate, should not dominate in matters primarily of city concern, matters in which communities like the city of New York have developed a life of their own, matters in which when they act and when their local representatives act, they act under circumstances largely similar to the acts of the representatives of the stockholders of business or private corporations. I say that that principle is proper but I also say that the gentlemen from New York have mistaken their remedy.

They are here asserting a remedy larger than the right; they are approaching the subject by indirection and not straight to the mark. Instead of advocating that the city of New York in order that it may protect itself and do as it pleases in matters primarily of local concern, instead of advocating that, in order to accomplish that purpose, they should be given complete domination in such matters, they are advocating complete domination also of matters of State concern. They are going in a roundabout way to their object. The more proper and practicable way to obtain that justice which they demand is to concentrate upon the question of whether this Convention is to accord to the city of New York and to the other cities of the State control over matters which intimately concern them, and them only. Such a remedy is not revolutionary; it is not radical. It is in thorough accord with the principles which I glean from Anglo-Saxon history. The principle of local self-government is not an innovation. It has been considerably whittled away in the last century by legislative encroachment, it is true, but I think it will be harking back to an acknowledged principle and an acknowledged practice rather than the importing of an innovation into our government, to extend the distribution of legislative powers which now exist between the country at large and the separate cities into a distribution of the legislative power, within the State of New York, between the State as a whole and the particular local communities which happen to be a part of the State.

I will not, however, detain you with a detailed argument upon the question of home rule for cities, but I wish to point out, nevertheless, one undoubted thing, that due justice cannot be done to the city of New York unless the home rule for cities which we grant shall be in the nature of a constitutional right as distinguished from a mere direction or permission to the Legislature itself to grant such measure of home rule as it sees fit.

Now the gentlemen from New York have their remedy right at hand, and in that connection, although I have no authority for the statement, and it is based upon surmise, I submit that it is a reasonable surmise that it was not by accident that when the committees of this body were made up there were placed upon the Cities Committee, which now has under consideration propositions looking to municipal home rule, a majority of the members emanating from the only counties in the State which have any practical interest in the particular constitutional restriction which we are now considering.

I say that instead of supporting this Proposed Amendment, the members from New York should get behind the members of that Committee and support them in their desire, hold up their hands and strengthen and solidify their resolution to demand from that Committee and from this Convention a fair, safe and practical measure of constitutional home rule. And if, with all their efforts, they are unable through the instrumentality of that particular majority in the Committee to get favorably reported to this Convention a measure looking to that end, I, myself, here am willing to state that I will co-operate with that portion of them which really realizes the demands that the city of New York is making upon this Convention.

And for that reason, and under the principle that in matters of State concern, the State at large should not be dominated by a particular community, and the same principle that a particular community should not be dominated by the State at large, I contend that I occupy an entirely consistent attitude, and that in place of adopting the Proposed Constitutional Amendment now under discussion; this Convention should pay particular attention to the matter so intimately and inextricably bound up with this proposition.

Mr. Clinton — Mr. President, it is with sincere regret on my part that the discussion of the amendment before this Convention has taken a form that is not consistent with sound deliberation and proper action. We have in the Constitution a provision which is said to operate unjustly to the greater city of New York in the matter of representation in the Legislature. If that be so, and if by its abolition the rights of the people of this State in the various

localities can be preserved, the amendment ought to carry. On the other hand, Mr. President and gentlemen of the Convention, the various discussions on which is based the charge of injustice in the matter of representation seem to me to relegate to oblivion certain principles of fundamental democratic-republican institutions.

I may be excused, I hope, for saying that I cannot see the force of arguments which impeach the intelligence of the people of the city of New York. Such arguments, and they have been reiterated twice with all the powers of oratory and all the force of threatened disaster, and once in a more moderate form, spring from the apprehension of threatened danger to the work of this Convention. We have a Constitution, and a provision in it, and that provision this amendment would strike out. The insinuation is — that word is not right — the threat is, under cover of smooth language, that the people of the city of New York, if we let the Constitution stand as it is in this respect, will visit us with their condemnation, will pay no attention to their own interests and will not exercise their intelligence when they come to pass upon the rest of the work of the Convention. My experience with the people of the city of New York where public questions have been up is directly to the contrary of the conclusion the gentlemen from New York would draw. There is not a more intelligent, thoughtful and public-spirited community in this State than you will find in Greater New York.

Therefore I pass such arguments over and if I may be permitted to refer to fundamental law to show wherein I think mistakes have been made in urging representation based upon population I will take the time although it is late.

One of the gentlemen from New York said that the very reason of the Revolution in this country was that the people were taxed without representation. That is true. But the people of this country, our forefathers, never entered into revolution upon the assertion of the principle that, in determining the question of taxation, they were to be allowed to absolutely control. No such principle was ever enunciated.

One other fundamental principle in our government seems to be lost sight of entirely: There is no such thing in this country as the adoption of the principle of representation in these legislative bodies on the basis of population. That seems to be a strange statement to make to this body, but it is absolutely true. While I try to deal with these questions fairly, without reference to politics; while I may defer to my Democratic friends occasionally, I do not do so with a view to giving any political tinge to my remarks, but I wish to call their attention to the fact that the fathers of the Democratic party put into the Constitution of the

United States a provision which recognized that localities, in the interest of localities, must be protected against the tyranny of the majority. In the House of Representatives, as to that they said: "We shall have a popular representative body," but when it came to the question of allowing the Congress of the United States to deal with the interests of the several States, they, the very fathers of Democracy, said that they were the champions of that thought that there must be equality of representation between those States, and that principle was injected into the Federal Constitution and remains there to-day, so that every State is protected by two representatives in the Senate. Our institutions are not those of a pure Democracy and never have been. The Constitutions of the various States have been prepared and to-day exist as embodying that principle. Now, Mr. President, we are not dealing with the assemblage in considering this resolution. We are not dealing at all with the question of reapportionment. We are dealing with the question whether this clause, properly applied, works injustice to a locality. In other words, following out the fundamental ideas on which our institutions rest, does that clause prevent the greater city of New York from protecting its rights properly in the Senate? Its operation gives that city a large representation, a representation which by the election of men competent to deal with State legislation, in my opinion, gives it full protection. Let us see further. If it does not do that, why, strike the entire clause out. It was put there with a view to having a Senate so constituted that the various localities would have proper representation in the Upper House, and that must be the principle — must be the principle of every government. If it does operate justly, if the representation of New York city is so limited, so limited that it cannot protect its interests, where, in acting with those who represent other bodies in the central body, the Legislature of this State, then it should be amended, but why strike out when it is pointed toward the very application of the principles which I have tried to make clear to this body? There is no reason for it.

And now let me add one word to what this gentleman who has preceded me has said. He has said indirectly, but we should base these questions directly, without animosity, without political bias, and we should not be here charging each other, either directly or indirectly, with being actuated in determining these solemn questions, by mere desire to maintain political supremacy. The gentleman from New York who spoke last has given an apt illustration of the consequences of striking that clause out. If I am correct as to the spirit of our institutions and our form of government, his argument, the argument of those who preceded him, would be extremely forcible, if applied to the proposition that we should abandon our present form of governmental institutions, and abolish the

Senate. My reason for saying that is this: We would then have one branch of popular representation and one only, the Assembly, but if the Senate is to be retained, and I believe it should be, that it must be, unless we are to fall back to an almost purely democratic form of government, with all the disasters in prospect that have fallen to the nations of old, if we are to retain it this principle is involved that no locality, no political division shall be permitted to dictate to all of the other political divisions in the State. The gentleman from New York who last spoke gave us figures, which I accept as true, which show that without this principle we would place the entire State, so far as the Senate is concerned, under the domination of one political body, the greater city of New York. Is that just? Is it right? It is not. When we speak of reapportionment, when we come to the Assembly different principles are involved. They will be discussed in due order but this is absolutely destructive of the principle which was adopted when the Constitution of the United States went into effect. If I may be permitted, Mr. President, I hope to say one word about the taxes imposed upon the city of New York. I do not wish to discuss the occasion for the high assessment of that city. It is undoubtedly due to the necessity, in order to comply with constitutional provisions in regard to the creation of indebtedness, to the making of high assessments. That condition arises from the peculiar — I will say necessities — of the city of New York, but there is a remedy for that. The tax rate is not as high as those of the other cities of the State, in general, but their assessment is high. The remedy for that is not by representation in the Legislature, dominant representation in the Legislature, but it is through the enforcement of existing laws and the equalization of taxation for State purposes, but whatever proportion the city of New York pays of our taxes, it reaps the full benefit. The State of New York is not composed of separate political units with separate interests. It is composed of political units which are all united in interest, and the prosperity of one part is the prosperity of the other, and each part should pay in accordance with the benefit it receives. If it be wealthy, it should pay accordingly. If it be comparatively poor, it should pay accordingly.

And now let me say, as an illustration of what I mean: you take the question of the expenditure of \$128,000,000 on our canals: Let me point out to you, and I refer to taxation only, that, although New York city will pay 73 per cent. — I heard it called 72 per cent., but I accept the gentleman's estimate, 73 — New York city by all odds gains a greater benefit than that percentage, when compared to the rest of the State. The wealth, the prosperity, the prospect of becoming the greatest city in the world,

indeed, the maintenance of her growth depends upon her commerce. Put a submerged dam across the Narrows and shut the commerce out, and what becomes of New York city? That is the illustration. History shows that the commerce of New York city was dwindling from competition by other waterways; that its commerce was dwindling by reason of the fact that the railroads in adjusting matters between themselves, has adopted differentials as between New York and other traffic ports. The people of New York took that matter up. They foresaw wisely that if the commerce of New York existing, and as the commerce of the United States grew, was to be diverted to Galveston, to Newport News, to Philadelphia, to Baltimore and to Boston, the great pre-eminence of the city of New York was not merely in danger, but doomed to be destroyed. Their interest in the expenditure of the \$128,000,000 is therefore very much greater than that of all of the State put together. Why shouldn't they pay 73 per cent.?

Other illustrations might be given, but I wish to say, Mr. President, that I did not intend to enter upon that subject because it is not germane to the question before us. I beg the pardon of the President and the members of the Convention for having indulged in it.

One thing more I wish to call attention to: Students of the Constitution as to the Legislature of this State and the apportionment, if they examine it carefully, will see that the effort to keep the representation as between localities, commenced with the first Constitution adopted after the Revolution. That it has been continued, that it finally was left the method by which that was done, the creation of large districts was finally dropped and nothing to take its place was put into the Constitution. Then came the apportionment of 1893. That brought this question up; that resulted in the putting in of that clause for the protection of localities. In the upper chamber of our Legislature, with democratic-republican ideals—for this is a democratic republic and not a democracy—that the upper chamber should represent local interests, I don't mean in representing local interests that that should be in disregard to the State interests but that that should be done and I sincerely hope that this wholesale amendment which does not reach to the bottom of the difficulty will be rejected and if anything is to be done, that will be done, in case there is injustice to New York city, which will give it a larger representation, but will not permit it to dictate the law for every locality in the State.

Mr. Hale—I hope, Mr. President, and members of the Convention, I do not need at this hour to assure you that I shall occupy but a very few moments.

The thing we are considering to-day is in its maturity, twenty-one years of age and as shown by Mr. Clinton it is based upon an older and longer experience. It goes back very early in the history of the United States of America and that is that there are and of course of necessity must be some limits to what a majority may do simply because it is a majority.

The Constitution has in several provisions requirements that in order to do certain things there shall be a two-thirds vote of the Legislature, and in order to do certain other things a three-fifths vote of the Legislature, and why, I beg to ask, if a mere majority is always a safe thing to rule by? What is the limitation that is complained of here? Not that New York city may not have its full one-half of the Senate, but that it may not have 51 per cent. of it. What is complained of on the upper limit? Down below we have the county protected, just a little bit. Not that each county may have a Senator, not that each two counties may have a Senator, or that each three counties may have a Senator and there are several Senatorial districts composed of three counties each; but that county lines shall not be split in order to create a Senate district. The county is recognized at the lowest end to that degree and extent only and the only limitation that is put upon any political subdivision of the State of New York is the single limitation of the city of New York, no matter whether you call it two adjoining counties or not. Mr. Wagner says, and he is frank about it, it is the real question between the city of New York, with its greater number of inhabitants, he claims and I suppose rightly, against all the other cities, counties and territory in the State of New York. Now what single limitation is there upon that majority of people residing in the city of New York? It is that in the Legislature and in the Upper House, the Senate, to wit, there shall not be a majority. There is no limitation that they may not have their full half. Now what does it all come down to? It never can have any practical application, one way or the other, unless the time comes when partisanship is thrown out entirely and the entire representation of the city of New York stands opposed to all the rest of the State. Now when you have got every Republican Senator and Democratic Senator in the city of New York united on a single measure and you cannot go outside the city and convince one other man in all the other, nearly one-half of the Senate, that you are right about it, I think you ought to put up with the proposition that you may not be right. All that this thing does and all it seeks to do is to say that you shall not offensively, because it has given you the absolute right to defend yourself adequately by having one half, all this limitation says is that you shall not use your strength offensively against all the

rest of the State without getting one convert outside of New York city; and, being aware of the persuasive powers of our friends from New York city, I do not doubt that on any just measure whatever they could always under any circumstances, if they have the right on their side, persuade some one of us to take the view that they are correct.

We do not need to close our eyes to perfectly obvious facts in the history of the finances of our country and its business enterprises. It does not take the ownership of 51 per cent. of the stock of a railroad, when stock is widely distributed to control it. The New Haven, in all of the years of its stormy history in New England and its control over the Boston and Maine, had far less than majority stock ownership. Mr. Harriman testified at Washington that if he owned 30 per cent. of the stock of a railroad he regarded it as his railroad, and with New York city having its full equal representation of 50 per cent. of the Senate, is anybody here seriously concerned, even the three gentlemen who have portrayed —

Mr. J. G. Saxe — Mr. President, I wonder if Mr. Hale will yield the floor.

Mr. Hale — I am not going to yield at this moment.

Mr. Hale — I simply want to say that it seems to me that there is no danger that the people of the city of New York resenting the expression, the judgment, the belief and experience of people residing outside of that city, are going to reject the work of this Convention upon the record and experience of the past twenty-one years.

Mr. Low — Mr. President, I accept the recognition because I hope that it will help to convince the members of the Convention, if they need to be convinced, that in speaking upon this question I am not speaking as a citizen of New York city, or as a citizen of Westchester county, but as a citizen of the great State of New York, of which we are all proud.

I entered into the service of the city of Brooklyn on the first of January, 1882, and it is hardly an exaggeration, Sir, to say that from that date to this in office and out of office, I have been trying to serve the great community which we now call the city of New York, and I would rather that my tongue should cling to the roof of my mouth than in this assembly, discussing this great question, I should say anything unworthy of one who owes to the city of New York everything that he is. It seems to me, Sir, that we have been discussing the symptoms of a question that goes very much deeper than anything that has been touched upon yet. I wonder if the members of this Convention realize that we are discussing a question, which, perhaps, has never before been discussed in just this form, in the history of the world. London is

the heart of England, but London does not dominate England. Paris is the heart of France, but Paris does not dominate France. Berlin is the heart of Prussia and Germany, but Berlin does not dominate Germany. Rome is the heart of Italy, but Rome does not dominate Italy. Petrograd is the heart of Russia, but Petrograd does not dominate Russia. Neither does the city of New York dominate the United States, but it does happen in this sovereignty of the State of New York that, if we follow the rule of numbers alone, the city of New York can dominate the sovereign State of New York. I was taught, Sir, in college, that there is no theory so perfect that in its application to human affairs it does not have to be modified, and I wonder whether we are not face to face at this moment with one of those theories that we must modify, if we are to act as statesmen. I sympathize with the view expressed by Judge Clinton that in the existing provisions of the present State Constitution as to the Senate, we have acted in our local way in entire harmony with the American principle which gives to every State in the Union an equal representation, but there is something deeper I think than all that in this thing that we are discussing. If there is one phenomenon of the last century that is more outstanding than another, it is the steady and surprising growth of cities at the expense of the country. Several of the counties in our own State, as was pointed out this morning, have a smaller population now than they had many years ago. It has gone so far that the question is really above the horizon whether the diminishing population of the country districts can continue to provide food enough for the consumers that are going in fast-increasing numbers into the cities of the Union. That may seem an absurd proposition, but if the members of this Convention will read the agricultural papers, not in this State alone but in other states, which gentlemen from Westchester occasionally read, they will see that it is not foreign to the thought which I am trying to place before this Convention.

Now, Sir, if under the operation of economies and social laws the city of New York has gained population at the expense of the agricultural part of the State steadily decade by decade do we want to add — is it statesmanlike to add a forced draft to that movement by saying to the people “If you will only go to New York you can control not only the city of New York but the State of New York”? It seems to me, Sir, that it is a situation where that college teaching which I quote has a great deal to say for itself, that the mere rule of representation by number in this instance ought to be modified in its application to human affairs. On the other hand, Mr. President, I think no one can have

listened to those who spoke from the city of New York in the early part of this debate — I certainly could not have listened to them, without realizing the importance of the point of view which they brought to the attention of the Convention this morning. And I want to take advantage of this moment to ask the Convention to think very carefully as to what it can do, and what it ought to do, before it adjourns, to minimize the feeling of antagonism that so easily grows up between the city and the rural part of the country because politically their affiliations are different.

The Parliament of Great Britain has been considering for many years the problem of home rule for Ireland, where they have had to face that question in a still more aggravating form, where the feeling between Ulster and the rest of Ireland has been strong for generations and for centuries. And Parliament has made it a part of the present home rule bill for Ireland that the legislative body of Ireland shall be elected by proportional representation. Now I know, Sir, that that is a novel thing for us; but I submit that the problem which we have is the problem which they have, and that we ought not to adjourn without giving the most careful consideration to what the suggestion means for us in dealing with the relations between the city and the State of New York.

The situation is this, Sir: I remember when the Legislature had in the Assembly, I think, only four Democrats outside of the city of New York. I can recall, or I think I can recall, when the Republicans of the city of New York had no representation either in the Assembly or in the Senate. Now there is a part of the difficulty. If the Democrats up the State were proportionately represented in every Legislature and the Republicans in the city were proportionately represented in every Legislature, I think the same result would follow as we see now, that in Republican years the Republicans would control and in the Democratic years the Democrats would control, but there would be no longer that antagonism by locality which so easily fans itself into flame on occasion.

There is pending before the Committee on Suffrage a proposition based on this suggestion of proportional representation, and Professor Jenks said that where it had been applied in Switzerland and in Belgium, for example, it had absolutely done away with corruption at the polls, because there was no longer any motive to buy delegates when the citizens who voted were proportionately represented. He said that in Belgium it had strengthened parties. I asked that question with particularity, because, Mr. President, I should not willingly vote for any plan

that threatened the strength of parties in the United States. They are the one influence in our life that divides the citizenship up and down. Everything else divides us horizontally into classes, and whatever may be the shortcomings of parties, whatever may be their faults, I believe that they have done more than any other single influence to keep this people an united people and free from class feeling. Therefore, I would not support anything which I thought would weaken the force and strength of party spirit and party life in our political activities, but I quote Professor Jenks, who is a careful student and a very sane man, as saying that in Belgium it has had just the reverse effect, that it has strengthened parties.

Now, Mr. President, I know that is not the question before the Convention this morning. I suppose that the question is to agree or disagree with the report of the Committee on Legislative Organization, and upon that report, because I agree with Mr. Clinton and with Judge Hale, I shall vote to sustain the report. But I do not think that that will dispose of the tremendously important question that has made its appeal here this morning to the statesmanship of this body. Probably before we adjourn we can take some action on the merits of the other side of the question that will send us back to our constituencies not only as an united body, but as a body that will appeal to an united people.

Mr. Wickersham — Mr. President, it is now twenty-five minutes past one. There are a number of committee meetings set for this afternoon and this evening, and therefore, with some reluctance I move to adjourn for the day.

Mr. Berri — Before we adjourn, Mr. President — we are in the order of reports of standing committees, I understood.

The President — Will the gentleman from New York withhold his motion in order to permit a report to be made?

Mr. Wickersham — Yes.

Mr. Berri — The Committee on Printing, to which was referred the matter of printing the proceedings of the Magna Charta Commemoration, presents the following resolution and asks its adoption.

The Secretary — Resolved, That the Secretary be directed to order printed as a document 5,000 copies of the proceedings of the Convention on the evening of June 15, 1915, in celebration of the 700th anniversary of the signing of Magna Charta, 2,000 copies of which are to be bound in cloth and the balance in paper covers, for distribution as the President of the Convention may direct.

The President — The question is upon the report of the Committee on Printing, for the printing as a document of 5,000 copies

of the proceedings upon the Magna Charta Commemoration. Are you ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The Ayes have it and the resolution is agreed to.

Mr. Quigg — I want to give notice, if I may do so, that I shall presently ask the Committee on Rules to report on the resolution that I offered some time ago with regard to the appointment of a Committee for the definition of the manner and time of the submission of the work of the Convention. Mr. President, I did not offer that resolution with the idea of being appointed Chairman of a special committee. I think it would be a good thing if the Committee on Rules would report that with a substitute, referring it to Judge Rodenbeck's Committee on Revision, imposing the duty upon the Committee on Revision. We have not had much work yet and maybe we will not have a great deal, but, anyway, it seems to me that that would be the proper disposition of the work, but I should like to call it up very soon, if I may.

The President — The Chair lays before the Convention a communication from the Secretary of State, together with a letter from the President of the Convention to the Secretary of State, calling forth the communication. The Secretary will read the two letters and include the statute which accompanies them in the Record. The Chair begs the attention of the Convention to this correspondence.

The Secretary —

ALBANY, N. Y., *June 22, 1915.*

DEAR SIR: I beg to refer to Chapter 668 of the Laws of 1915, entitled "An act in relation to the notice, distribution and publication of amendments to the Constitution submitted by the Constitutional Convention to the people for approval at the general election in 1915."

It is evident that the execution of this act will require a good deal of work to be done in the office of the Secretary of State in advance of the six-weeks' period immediately preceding the election. For the information of the Convention I should be glad if you could advise me at what time it will be necessary for you to have delivered to you, as Secretary of State, the completed work of the Convention, in order to enable you to comply with the requirements of the statute.

With great respect, I am,

Very sincerely yours,

(Signed) ELIHU ROOT.

STATE OF NEW YORK
SECRETARY OF STATE'S OFFICE

ALBANY, *June 25, 1915.*

HON. ELIHU ROOT,

President of the Constitutional Convention of the State of
New York,
Albany, N. Y.

DEAR SIR: I am in receipt of your communication of the 23rd instant referring to Chapter 668 of the Laws of 1915, entitled "An act in relation to the notice, distribution and publication of amendments to the Constitution, submitted by the Constitutional Convention to the people for approval at the general election of 1915," and requesting, if possible, that I advise you as to the time when the completed work of the Convention should be delivered to me in order that I may comply with the requirements of the above-referred-to statute.

In reply thereto, I am of the opinion that the completed work of the Convention should be delivered to me some time between August 1st and August 15th, at the very latest. I fix this for the following reason: Section 1 of Chapter 668 provides that the Secretary of State shall include in his notice of the general election to be held in November, 1915, a copy of the text of every amendment to the Constitution proposed by the Constitutional Convention, etc. Section 293 of the Election Law provides that the Secretary of State shall transmit to the custodian of primary records the general election notice at least two months before the general election. Since election day this year is the 2d day of November, the general election notice must be sent from this office prior to September 2d, and, in accordance with the provisions of Chapter 668, contain a copy of the text of every amendment to the Constitution, or a revised Constitution if submitted. If this office does not receive from the Constitutional Convention the completed work of such Convention prior to August 15th there will be at our disposal only sixteen days in which to prepare the Proposed Amendments in proper form for submission, have same printed and transmit them to the boards of elections, as required by Sections 293 and 294 of the Election Law. You can readily see the amount of labor involved, and if the work of the Convention could be delivered to this office within the period indicated our duties would be facilitated considerably.

Yours respectfully,

(Signed) FRANCIS M. HUGO,
Secretary of State.

The President — The whole communication, with the inclosure, will be printed in the Record and be referred to the Committee on Rules for their consideration in connection with the resolution that has been referred to that Committee.

The Secretary will make announcements.

Mr. Wickersham — May the attention of the members be called to the fact that the matter which has been under discussion to-day will be continued to-morrow, and if the debate is closed there will be a roll call, so that the presence of members is urgently requested for to-morrow.

The President — That is the understanding of the Chair, that the matter which has been under discussion to-day will come up under the head of Committee Reports to-morrow.

Mr. Brackett — Mr. President, I assume that the leader does not need to be reminded that he may ask for a call of the house if necessary for final disposition of the matter, so that members may make their arrangements accordingly.

Mr. Wickersham — I move that we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 1:40 p. m., the Convention adjourned to meet at 10 o'clock a. m., Thursday, July 1, 1915.

THURSDAY, JULY 1, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. P. A. Macdonald.

The Rev. Mr. Macdonald — Almighty God, Our Heavenly Father, we thank Thee for the rest of the night that is gone, and for the privilege of taking up again the work of this day. We thank Thee for our privilege and for the honor that we have of being citizens of the State of New York. We thank Thee for the men in days gone by who in faith and prayer and patience founded our Constitution, and we rejoice in the glorious history of our Commonwealth and in the place of its Constitution in its shaping and the working out of its destiny. We thank Thee for this new day and for the obligations and the new opportunities of the members of this Convention, and we ask Thee now to give them grace that they may look to Thee for Thy blessing, recognizing Thee as the infinite source of wisdom, of justice, of truth and of equity. Be with them to-day, Our Father, and bless them in their labors. While the members of this Convention are absent from their

homes, may Thy tender providence be in the midst of their families; may each one be kept by Thy tender and loving care. Should sorrow visit any home, heal Thou the wounds of sorrow; should joy be their lot, lead them, we pray Thee, along the path of light, the path of the just which is as the shining light which shineth more and more unto the perfect day. We ask all these things, with the forgiveness of our many sins, in Thy Holy Name, Amen.

The President — Are there any amendments to the Journal as printed and distributed? There being no amendments the Journal stands approved as printed.

Presentations of memorials and petitions.

Communications from the Governor and other State officers.

The Chair lays before the Convention communication from the State Engineer and Surveyor in response to a resolution adopted by the Convention on the 18th of June, which will be referred to the Committee on Canals.

Are there any further communications from the Governor or other State officers?

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Barrett — For the purpose of amendment, I move that the Committee on County, Town and Village Government be discharged from further consideration of Proposed Amendment, Printed No. 74, and that it be amended as indicated, reprinted and recommitted to that Committee.

The President — Is there objection to that order? There being no objection the order is made as requested.

Mr. Deyo — I offer the following resolution:

The Secretary — By Mr. Deyo: Resolved, That Mr. Dingman and Mr. Patterson, superintendent and assistant superintendent of the Convention's document room, be retained in their present positions for a period of thirty days or as long as their services are needed after the adjournment of this Convention.

The President — Referred to the Committee on Rules.

Mr. Deyo — Mr. President, does not that resolution go to the Committee on Contingent Expenses?

The President — It may. The reference will be changed, and the resolution referred to the Committee on Contingent Expenses.

The President — Reports of standing committees. Any reports of standing committees? The Chair's understanding is that the question relating to the report of the Committee on Legislative Organization is to come up under this order of business.

The President — The adverse report of the Committee on Legislative Organization upon the Proposed Amendment introduced

by the gentleman from New York, Mr. M. J. O'Brien, is before the Convention this morning.

Mr. Baldwin — Mr. President, and Gentlemen of the Convention: I was very glad yesterday to know that those who were selected to answer my colleagues, and who had the disagreeable task of proving that inequality is equality, and that unjust representation is just representation, treated the subject with so much candor.

Without exception, nearly every one of them recognized the wrong, and my friend from Niagara, who has lived long enough in the metropolitan district to understand the temper of the electorate, thought he had found the solution. He said that he sympathized with New York, but that he thought the solution was to be found in granting municipalities home rule, thereby separating local affairs from matters of State concern.

Well, if he recognizes that this inequality of representation is unjust as now imposed, how does he justify the principle that he puts forth, that when we grant home rule — which I hope that this Convention will do, and that he spoke with the authority of his colleagues — and remove local affairs from the jurisdiction of the State government, then there should not be absolute equality in representation. To my mind, an act which is a crime in Niagara should be a crime in Brownsville, and the same law of inheritance that applies in Queens should apply in Lockport.

I think that this discussion is very opportune, because to my mind it will save the Convention a great deal of work if we know at this time whether a majority of the inhabitants of this State — and bear in mind the eulogy which the delegate, Mr. Clinton, gave them yesterday, that he had always found the citizens of New York most intelligent, most enlightened — whether a majority of inhabitants of this State who choose to live within the confines of a single city are to be asked to ratify a document which will abridge their rights of citizenship and deprive them of their just rights and proportional representation in the affairs of State government.

If this report is to prevail and these unjust restrictions are to remain, to my mind this Convention might as well adjourn now, because we are engaged in the discussion of academic questions which will never be enacted into law. I am aware that the Constitution of 1894 embraced these unjust restrictions, but at that time these restrictions were potentialities. They were *in futuro* at that time. Two counties as then organized might never contain one-half of the population of the entire State, but twenty years have gone by and those potentialities have become actualities, and

to-day the greater city contains a million more inhabitants than the remaining part of the State. In 1894, the delegates to that Convention who were from the rural districts constituted a majority of that Convention, and with prophetic eye they looked forward to perpetuate the continuance of that control, and so they laid their ropes. The population has grown and those ropes have tightened, and to-day a minority of the people of this State are in majority control of the affairs of this Convention, and a few Senators are awarded to New York, a minimum amount to satisfy the conscience, while the remaining Senators are allotted equally to the remaining counties of the State.

Mr. J. G. Saxe — Does not the delegate know that the county of Westchester, from which comes the delegate, Mr. Low, has only one Senator, whereas the county of Monroe with the same population has two; and that the county of Erie, from whence comes the delegate, Mr. Clinton, has only three, while on the basis of equal population that county would have but one?

Mr. Baldwin — I will answer that in this way: According to the argument of Mr. Clinton, yesterday, the difference between equality and inequality is very little and the difference between three and four is only one; and possibly to his mind, misrepresentation of his constituents is the same thing as representation. It is not, to my mind. As for the first question, it may be a sufficient answer that my friend Mr. Low, who comes from Westchester, has consulted the records of his party and seen that the good old county of Monroe is always faithful when the returns are sent in and possibly that is sufficient reason to his mind why Westchester should have one and Monroe with less population should have two. Or it may be another reason, I do not know. It is asserted in the corridors that it may be in the mind of the delegate from Westchester that he questions the quality of the electorate of Westchester county which sent him here to represent them. It may be that he ascribes to them the same quality of representation, that he and his associates in this Convention seem to ascribe to the people of New York city, an electorate which for twenty-five years kept him in public office, and, recognizing his sterling qualities, gave him the greatest gift at their command. Are you questioning the electorate or the quality of the electorate of New York city? If there is any other reason, Senator, I shall have to ask Mr. Low to explain to you his support of this amendment which will disfranchise the people of the city of New York. The question before this Convention is, Are the people of the city of New York to have equal rights with the remaining people of the State? If you say no, then let us adjourn and spend our summer vacation in a more attractive resort. This

provision, in effect, says New York shall never have more than one-half. Why not add to the provision — “nor pay more than one-half of the taxes levied directly or indirectly.” If such a provision had been added to this amendment, there might be some reason for submitting it to the people, but to accord the full burden of taxation and deny equality in representation can find no defense in reason.

And why is New York to be denied proportionate representation? Is it because she has not done her share toward making this the Empire State? Has she not borne her full share of the burden of government? Has she ever lacked in public spirit and progressive ideas? By what process of reasoning can you apply one rule as to representation and another as to taxation. In the development of government taxation and representation have gone hand in hand.

Now, please don't misunderstand the attitude of the greater city. We are not complaining of the taxes. New York pays its proportionate taxes, and it pays them gladly. Why? Because it has the property which is the just basis for taxation. Taxation, to be just, must be apportioned upon property. Now, if we had in this country a government of dollars then we might complain that we were denied representation, but we are not supposed to have a government of dollars. No one wants it. We are supposed to have a government of people, and if you have got a government of people, then your representation must be based upon population. The fundamental principles which underlie all our system of government are that taxation is based upon property and representation is based upon population. If you destroy these two purposes which this insidious provision in the Constitution actually does, then you destroy the cornerstone of democracy. If you can say to New York “You shall never have more than one-half,” you can just as well say “You shall not have more than one-fourth.” You can just as well say “You shall never have more than one Senator and one Assemblyman.” Gentlemen, the principle is wrong. It is inequality. Bear in mind inequality knows no limitations, when once you recognize the principle.

Since our deliberations began, I have heard a great deal about the inadvisability of injecting partisanship into this Convention. I would be the last to suggest anything of a partisan nature, because we are engaged in writing into this Constitution those fundamental principles of equity and justice that are above party and that will endure, we hope, for all time. I would not stigmatize this effort to strangle New York city as a partisan effort. It is more. It is worse. It is sectional. The success of this

strangling effort will necessitate the active opposition of every representative from the greater city to this Convention, unless he prove false to his constituents, or is of that brand of man who can place party expediency above principle. I realize that there are in this Convention a great many partisans who have faced each other in the Legislature, and who have fought political battles and many of them, and it may be that they have memories of strife and bitterness of heart toward political antagonists, but there are in this Convention men who have never felt the impelling force of party expediency; who do not see any profit in political preferment. Men who have placed principle above party and right above sectional advantage. It is openly asserted that the program has been agreed upon. You are only waiting to hear New York's protest and then take the vote, and we all remember when this debate opened, the distinguished chairman said "If Senator Wagner is to be ground to pulp, as I believe he is and ought to be, let us do it in a decent and orderly manner." Now, I did not like the smile that spread over his classic face nor did I enjoy the snicker that went around this Convention hall, because, let me tell you gentlemen, this is a proposition that cannot be disposed of by ridicule no matter how adept he is who speaks to you and how well he knows to handle that effective weapon. This proposition cannot be laughed out of this Convention, nor out of the hearts of the people of the city of New York. Gentlemen, does it not seem trivial as we look back on the great struggles of our forefathers, to think that they should get up so much excitement about the question of tea? Why, if they did not want to buy the tea, they did not have to buy it, but that was not it. The fact that there was an import duty, a tax to the Colony of Massachusetts and that the other colonies of Great Britain, the mother country, did not have to pay that tax, was ground into the hearts of the citizens as a great injustice, and it was the cause of great unrest and, gentlemen, it took more than laughter and ridicule to remove that, and bear in mind, gentlemen, it is a principle here and not the question of whether there are one or more Senators or Assemblymen. It is the sense of injustice that you are thrusting upon the majority of the people of the State. But I cannot believe that you have all made up your minds and that you have come here with only one purpose, and that is to vote. I hope it is not true. And of such of you who I know have a regard for your decisions in this matter, I ask a few moments for some special consideration.

On the first morning when we assembled here, and we all went down to the well here in front of our President, we each one of us swore we would support the Constitution of the United States.

Now, to my mind, not one of you, if you are true to your oath, can ever vote to support this report, for it violates the very principle of that sacred document, into every line of which is written the doctrine of the equality of man.

Bear in mind that the Constitution of the United States has a Bill of Rights and that it has certain guarantees and that among them we read this, and I do not think the attention of the Convention has been called to it yet: "The United States shall guarantee to every State in the Union a republican form of government." That is one of the guarantees. When the words, "republican form of government" were written into the Constitution they had a well-defined meaning, and they mean to-day, as they meant then, equality of representation and they mean to-day equality of representation, and no act of this body can ever change the meaning of plain English.

Now, to demonstrate this idea, I would like to have you examine just for a moment, gentlemen, three special considerations: First, the meaning of the word itself; second, its use in the Constitution of the United States; and third, the history of that phrase in former legislation.

Now, the word "representation" implies equality. No other interpretation can be inferred from the very nature of the word itself. Can anyone assert that the word representation implies unequal representation? Such a proposition is unthinkable.

If there is any doubt about its meaning, it would seem to be settled by the manner in which it is used in the Constitution itself.

I was surprised yesterday when I heard the distinguished gentleman from Erie, Mr. Clinton, whose name and that of his forebears is so intimately connected with the affairs of this State, declare that government is not founded on the right of representation based on population.

Of what government was he talking? Was it that of the Empire State as represented by the Constitution of 1794? If so, then he is right. But if he means the Constitution of the United States, he is wrong. If he means the Constitution of the State that is republican in form, and which is guaranteed to the people of the State of New York by this Constitution of the United States, he is wrong.

Now, I am perfectly well aware of what has been or may be said in connection with the United States Senate. But bear in mind the Constitution of the United States is a different document. They were there dealing with two different propositions, two different things. On the one hand, there was the State; States,

State sovereignty, State independence; the States came together to make an agreement, and they were dealt with on that principle, on absolutely one principle, that of equality.

There was another thing that document dealt with, the representation of the people, and when that document dealt with the people, it did so on one proposition, the proposition of absolute equality. Nowhere in that sacred document can you find an inequality written.

Governor Sheehan yesterday read to you many passages to demonstrate what that meant. I will not repeat those. But I shall ask you to take out your documents and read it through with this idea in mind, that when it comes to the question of representation of the people, what was it they said? They said this: "Representatives shall be apportioned according to their respective numbers."

Any inequality in that? Is not representation based upon population? Yes. There is no doubt about it.

Can any one for a moment contend that under the Constitution of the United States an apportionment may be based on any other principle than that of the absolute equality of the people? It cannot, and did any of you ever stop to think that in that document there was provided this, that every bill for the expenditure of money must originate — where? In the House of Representatives, "whose members should be elected upon the basis of population."

Please note, also, that throughout the Constitution wherever they mention representation, they include the word "taxation."

My distinguished colleague, Judge O'Brien, gave you some quotations yesterday that I should like to call to your attention again. One of them is from the Declaration of Independence, where our forefathers stated the third specification of their grievances against King George in this simple but emphatic language:

"He has refused to pass laws for the accommodation of large districts of people unless those people would give up their right to representation in the Legislature, a right inestimable to them and formidable to tyrants only."

Long before it was written into the Constitution, this right of representation was regarded as one of the fundamental rights of human liberty, and its denial was the *casus belli*, and that representation meant just representation and I cannot see why the citizens of New York should not have equal rights with the citizens of Cohoes.

Now, just one other thing. Before this was written into the Constitution of the United States, this phrase, "republican

form of government"—there is a history of that phrase. Immediately after the Revolution the States came together and formed the Confederation, and under it one of the first problems that the Congress of the United States had to deal with was that of the government of the Northwest Territory, and we find that the first act relating to that government, passed in 1784, a law framed by Thomas Jefferson, contained these words:

"Provided that both the temporary and permanent governments be established on these principles as their basis: That their respective governments shall be representative." Now three years later that law was amplified, and in 1787 it was put into effect and known as the Ordinance of 1787. By its terms there was a Bill of Rights to which I would respectfully refer the Chairman of the Committee on the Bill of Rights, and in that Bill of Rights, mind you, this is written: "The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus and of the trial by jury and of a proportionate representation of the people in the Legislature"—written into the fundamental bill of rights of the inhabitants of that territory, and then it provided for the the organization of States, and said, "The government so to be formed shall be republican and in conformity to the principles contained in this article."

And what were they? Three things. Trial by jury, habeas corpus and proportionate representation of the Colony in the Legislature. There is an expressed definition of what republican government meant and that was signed on the 13th day of July, 1784; and two months later, to a day, on the 13th day of September, the Constitution of the United States was completed, signed by the thirty-eight delegates and recommended to the respective States for adoption, and when sixty days later that Congress, that Convention which completed the Constitution of the United States, wrote in the Constitution that every State shall be guaranteed a republican form of government, they knew what that phrase meant. That Convention was composed largely of the same distinguished men who constituted the Congress who passed the Ordinance of 1787. Now, gentlemen, speaking—I know my constitutional friend on my right, who, judging from the smile that occasionally goes over his countenance, does not always agree with me—speaking technically, the Constitution of the United States never had a Bill of Rights until after the struggle of the sixties was ended and then it became necessary to take care of those new citizens who had been born slaves and who, at the point of the bayonets of a citizen army, had been guaranteed equal rights with their white brethren, and when they came to write into the fundamental law the results of that struggle, they put down a few things

in the Bill of Rights. Now you are all familiar with them, but sometimes it does us good to reflect on these things — they are not long: “Nor shall any State deprive a person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law; no State shall make or enforce any law which shall abridge the immunities or privileges of the citizens of the States.”

Now we citizens of New York like to think that the right to vote is one of the privileges of citizenship, but because of the bitterness of that great struggle, it was thought necessary to write in some additional protection for those new citizens, because it was foreseen that the former owners of those slaves might take some steps to deprive them of their equal rights. “The rights of citizens of the United States to vote shall not be denied by the United States or any State, on account of race, color or previous condition of servitude.” They thought that was enough, and what were they doing? “Guaranteeing the rights of freemen to the men who had been bondsmen and who had just come into those rights. Their right to vote was regarded as so sacred that not only was it written into our fundamental laws, but it was also there provided that that right could not be abridged.” Whoever dreamed that when our citizen army disbanded and went back to their vocations, it was necessary for the Congress to take any further step to prevent a sovereign State from disfranchising white men? It was unthinkable.

Mr. Franchot — Are you aware in that very Article XIV, to which you now refer, the number of representatives on a basis other than population is expressly recognized?

Mr. Baldwin — In what provision?

Mr. Franchot — In Subdivision 2 of Article XIV, which provides that upon the disfranchisement of any of the citizens of a particular State —

Mr. Baldwin — Oh, yes; quite right.

Mr. Franchot — Their representation shall be reduced accordingly.

Mr. Baldwin — Absolutely, I am quite aware of it. I thank you for the suggestion. I thank you for the suggestion, and let me go back and say that you can determine the age limit of your voters. You can determine on a literacy test. You can abridge the right of suffrage, if you do it by a universal law, applicable to all the people of the State. In answer to your question, it may be that this Convention has the right to disfranchise a people because of the place in which they dwell, but I tell you that Section 2 covers it, and that says as plain as English language can be, “But when the right to vote for members of the Legislature (this

is the State Legislature) is denied, or in any way abridged to any of the male inhabitants of the State over twenty-one years of age, unless for participation in rebellion (you don't accuse New York of that), or for other heinous crimes (you don't accuse us of that), then the right of New York State's representation in Congress shall be cut down in the proportion to such abridgment which is more than one-half." You talk about statesmanship! Are you going to put this danger before the people of having your right to the National Congress to be cut down to more than one-half, because you abridge the right to vote of more than one-half of your male citizens over twenty-one years of age? That is the answer. I hope it is clear. At least you have my idea.

Mr. Franchot — Mr. President, I would like to ask the gentleman if you consider that you are preventing any citizen duly qualified in the State of New York from voting?

Mr. Baldwin — I do not say that you are preventing the vote, but you are abridging. There are two things, denial of the right to vote and the abridging of the right to vote, and when you deny equality in representation, you are abridging that right. That is exactly what the word means.

Now, I believe, and this argument has gone further than I intended, Mr. President, I believe that if you gentlemen will candidly consider this question, you cannot but come to this conclusion, first, that the sovereign people of the State of New York cannot deny to its citizens equal rights, because of the locality in which they dwell, or second, if you can deny them that right and you do exercise it, then under the Constitution of the United States, we are to be penalized in our representation in Congress in the same proportion.

The other evening I heard the distinguished delegate who serves as chairman of our Bill of Rights say that there were other things written into the Bill of Rights that were not there expressed in language, such as trial by jury and habeas corpus. He read along with these sacred rights "the equal protection of the law." I would add one other phrase, viz: In "the equal right in the making of those laws." If the report of this Committee is to be sustained, then you are taking away one of the sacred rights of freemen, and you might just as well, Mr. Marshall, write into your Bill of Rights that the right of trial by jury shall not be denied, except in counties separated by public waters or that the writ of habeas corpus shall not be suspended, except in cities having five counties or more, as to say that all citizens of the State shall be equal in voting and participating in elections, except those residing in the city of New York.

Now, apart from our natural rights as citizens and as freemen who have inherited this richness from our ancestors, we believe

that we are assured by the sacred guarantees of the Constitution of the United States against the disfranchisement which this proposition engenders. But aside from any question of power on your part, and you have the power, gentlemen — the votes are right here — aside from any power on your part to do this wicked thing, do you think it wise, do you think it statesmanlike, to borrow a phrase from my friend from Westchester?

Do you think it statesmanlike to write any law over the solemn protest of the representatives of a majority of the people of the Empire State? Is the minority to deprive the majority of equal rights? Is New York city to take the place of a subjugated province? Are you, my fellow delegates, to permit your decision on this question to be determined by the fact that you chance to live in Ithaca or in Rochester? Is sectionalism to stalk forth into this Convention in greedy avarice?

This Convention, gentlemen, the composition of which has been described as the equal of any ever assembled in the Empire State, measured in terms of ability and character, shall not descend to the level of a party caucus. Sordid hypocrisy shall not take the place, in our deliberations, of justice. Politicians for profit always plot for power, and that is the proposition here — power — conceal it as you will. Gentlemen, you are men of character and men of patriotism and as such New York appeals to you for equality before the law and equality in the making of that law.

Mr. Dykman — Mr. President and gentlemen of the Convention. I rise to register a protest from Kings against this report from the Committee on Legislative Organization and against another report from the same Committee. I protest for Kings county and Brooklyn against the clause in the Constitution which we seek to strike out, the clause providing that "No two counties or the territory thereof as now organized which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the Senators." It might just as well have been written in this section that "New York county" and "Kings county" should not have more than one-half of all the Senators. I protest against the wrong inflicted upon Kings county; I don't like to see Kings county suffer by this wrong and I protest against the partnership in the wrong between New York county and Kings county.

Brooklyn is still the City of Churches. Public opinion in Brooklyn is still largely made from the pulpits of Brooklyn. Brooklyn is a community of plain people, living in modest homes, having the thoughts and the aspirations and the hopes of you gentlemen from the country districts. I don't want to see Kings county or Brooklyn tied up in a suffering inflicted by the country

members, for a community in suffering inflicted by the country is more apt to tie closer together New York and Kings county than any other means at your command. My memory goes back to the days when Kings county was for years in partnership with the country leading the party to which I belong along the paths resulting in great good to the State and to the nation, of which I shall speak before I sit down.

The thought of the argument back of the matter immediately before us may be found in the report from this Committee which, carrying further the wrong and outrage upon these two counties, provides that the five counties now within the city of New York shall not have more than one-half of the Senators and, mark you, not more than one-half of the Assembly.

I listened with great attention to the gentleman from Erie, Mr. Clinton. None in this Convention can fail in respect to the great name he bears and all will rejoice that that great name is so worthily borne; but I was greatly disappointed for I expected to hear stronger reasons in support of the report of the Committee.

I rejoiced when Mr. Low arose, for I thought we would then find what really was in the minds of the majority and would be able to answer it. When Mr. Low announces a vote to disfranchise, or partly disfranchise a part of Brooklyn there must be great disturbance in a mind usually singularly free from prejudice.

Now Mr. Clinton and Mr. Low seem to advance two reasons, two arguments in support of the report.

Mr. Clinton said that the counties of the State were in much the same situation that the States of the Union were when the Convention met to frame the United States Constitution.

He argued that Erie county and Kings county might be likened to Rhode Island and Virginia, with all the centrifugal force at work to separate them and to make the Constitution of the United States impossible, and that mutual concessions should follow here as concessions were made in the Federal Convention.

It is hardly necessary to take much time to reply to that argument. There is no parallel between the States, or the representatives of the States gathered together in the Convention to frame the Constitution of the United States, and the delegates from the counties or localities here assembled to frame or revise this State's Constitution.

Mr. Clinton next argued that the Senate of the State of New York represents territory and the popular branch, the Assembly, represents population.

But Section 4 of Article III provides, that "Each Senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens."

The principle of that section is that the number of Senators shall depend upon population, and the clause of the section to which we object is an exception to the rule.

Population governs the distribution of Senators within Greater New York; population determines the distribution of Senators outside of the Greater New York.

The territorial argument is only used to separate the city of New York from the country districts and to inflict upon the city of New York this disfranchise wrong.

But, can the gentleman from Erie or can any member of this Convention seriously argue that the Senate is to represent territory, and the Assembly is to represent population, and that this was the thought back of the report of the Committee, the adverse report upon Mr. O'Brien's proposition, when we have upon our files a further report from the same Committee that the city of New York, with five counties, shall never have more than half of the members of the Assembly? The territorial argument must fall to the ground.

Now, what is the result of departing from an apportionment by population? I want to take a moment of your time to read from the speech of Mr. Becker in the last Constitutional Convention, when he opened the debate upon the article which we seek to amend. Mr. Becker quoted from an opinion of Chief Judge Morris, and used words of high commendation of the opinion. Chief Judge Morris wrote: "There is no higher privilege granted to the citizen of a free country, than the right of equal suffrage, and, thereby to an equal representation in the making and administration of the laws of the land. Under our State Constitution the right of the elector is fixed. To him equal representation is a right as well as a privilege, of which the Legislature cannot deprive him. These wrongs have been committed for partisan purposes. Their object and effect is to deprive the majority of the people of their will in the administration of the government. The greatest danger to our free institutions lies to-day in this direction."

And again quoting from another judge of the same court, Mr. Becker read: "The purpose of the constitutional enactment is to secure as nearly as possible equality of representation. Any apportionment which defeats that purpose is vicious, contrary not only to the letter, but to the spirit of our institutions, and subversive of popular government. Power secured or perpetuated by unconstitutional methods is power usurped, and usurpation of power is a menace to free institutions. The greatest danger to the Republic is not from ignorance but from the machinations to defeat the expression of the popular will." And more from Mr. Becker's own lips in condemnation of the apportionment of 1892 along the same lines.

Now the second argument made by Mr. Clinton was the fear of a solid delegation from Greater New York tyrannizing over a minority. And my recollection of my reading of the debates in the Constitution of 1894 is that the distinguished President of this Convention said that to allow New York city, or these two counties, to have a majority representation in the Legislature was to place the legislative power in one hand, or words to that effect. I speak only from memory. Is there any justification of this fear of Greater New York? Take Kings county: How is Kings county represented in the Legislature to-day? There are four Republican Senators and there are four Democratic Senators. I speak from memory of the Assembly, but I think there is a majority of Republican members in the Assembly from Kings county to-day. Queens has a Democratic Senator; Richmond has a Republican Senator. Surely Mr. Hale, who minimized the danger to the city from an upstate majority, by declaring that we could always persuade some one man or more up the country to vote to protect us, will agree with me that there is not much danger of a majority hostile to the county, a solid majority in Greater New York, when Kings county has four Republicans and only four Democrats, and Kings county divides its representatives in the Assembly.

Mr. Low will remember, and the President of the Convention and older members will remember, that at least in the Democratic Party, Kings county has often gone with the country and against the county of New York. I remember the entrance of Mr. Low into politics in Brooklyn, and it was just after the nomination of Governor Robinson, when Kings county forced the nomination with the upstate members and the New York delegation, if my memory serves me right, withdrew from the Convention. Mr. Low will remember that the division continued so long that the completion of the Brooklyn bridge was for years delayed, as one of the consequences of the division in the Democratic Party. We all remember a division in the Democratic Party, when the Brooklyn delegation was led by one of her distinguished Senators against the gentlemen from New York. It seems to me very unwise, gentlemen of the Convention, that you should force New York and Kings together into a community of suffering, inflicted by gentlemen from the country. I desire to see Kings county lead the Democracy. I desire to see Kings county and New York county together, only when New York county agrees with us and follows us. And I don't want to feel that you gentlemen from the country, who think much as I think, those of my party, those who have the party hopes and aspirations that I have within my party,

I don't want to feel that the country represented even by Republican delegates has inflicted a wrong upon Kings county and hammered Kings county together with New York county in opposition to its oppressors.

Now, of course, the argument of Mr. Clinton is not the argument which you gentlemen have in your minds. You are not doing this because you believe there ought to be a territorial representation in the Senate and a popular representation in the House. You are not doing it for any fear of a hostile majority coming from the counties of Greater New York. You know there has never been a solid delegation coming to Albany from Greater New York, and you know there will always be elected some representatives of one political faith and some of another, and if I am right in this, and I am confident I am right, why will not the distinguished leader, why will not some one rise here and give us something to debate? Tell us what the real reason is behind the report, and if it is as we believe it to be, that you desire to disfranchise those in the city not of your political faith, say it, and let us debate it on that basis. Let us not be confined to answering arguments such as those we have heard that it is for territorial reasons or for fear of a solid majority in Greater New York.

Mr. Burkan — Mr. President and gentlemen of the Convention: As a member of the Committee on the Organization of the Legislature, I feel that I ought to express the view of the minority members of that Committee. It was urged upon us at the hearing, as well as upon the floor, that this principle of restricting the city of New York in respect to representation in the Legislature can be justified by a provision in the Federal Constitution providing for equality of representation of the States in the United States Senate. The gentleman from Erie laid great stress upon that point yesterday in his speech, and he said that the fathers recognized the principle of "territorial rights and distinction," and he sought to justify the action of the Convention of '94 by the provision in the Federal Constitution.

The gentleman from Erie would have you believe that the fathers recognized the principle of "territorial rights and distinction" — that the minority might impose its will upon the majority. Now when you examine the Journal of the Constitutional Convention, you will find that Mr. Clinton is not supported at all. Neither the men who wrote that article, nor the men who sat in that Convention, nor their contemporaries believed in that principle. They did not believe that the minority should impose its will upon the majority by any such methods as were resorted to

in the Convention of '94, and sought to be perpetuated in the present Constitution. The men who sat in that Constitutional Convention regarded the principle as grossly iniquitous, and the debates show that many, many weary days were spent in discussion and argument. The smaller States insisted on equality of representation in the United States Senate. They threatened to secede. They threatened to set up separate sovereignties, and the larger States, in retaliation, threatened civil war. Finally the Convention nearly broke up because no compromise could be reached. Eventually they woke up to the grave problem which was then confronting the founders of the country, the makers of the Constitution. The larger States were compelled to yield to the unjust demands of the minority. In regard to that proposition, Hamilton says: "Every idea of proportion and every fair rule of representation conspire to condemn a principle which gives to Rhode Island an equal weight in the scale of power with Massachusetts, or Connecticut, or to New York; and to Delaware an equal voice in the national deliberations with Pennsylvania, or Virginia, or North Carolina. Its operation contradicts that fundamental maxim of republican government which requires that the sense of majority shall prevail. Sophistry may reply that sovereigns are equal and that a majority vote of the States will be a majority of Confederate America, but this kind of logic will never counteract the plain suggestion of justice and common sense."

As to the reasons for the adoption of that provision of the Constitution I refer you gentlemen to what Mr. Madison said in his debate. He said: "The States were divided into different interests not by their difference in size but other circumstances, the most material of which resulted from climate and principally from the effect of their having or not having slaves. These two causes concurred in forming the great division of interests in the United States. It did not lie between the large and small States. It lay between the Northern and Southern; and if defensive power were necessary, it ought to be mutually given to these two interests." He was so strongly impressed with this truth that he had been casting about in his mind for some expedient that would answer the purpose. So you see that the question of the institution of slavery and the consequences of slavery and the relation of slavery to the States was one of the chief points, was one of the great arguments through which the majority was compelled to accede to the demands of the minority.

When the large States demanded that the small States yield and give up their scheme, Mr. Bedford, of Delaware, rose and said: "The little States are willing to observe their engagement but will meet the larger States on no ground but that of the Confederation. We have been told with a dictatorial air that this is the

last moment for a fair trial of a good government. It will be the last, indeed, if the propositions reported from the committee go forth to the people. The large States dare not dissolve the Confederation. If they do, the small ones will find some foreign ally, of more honor and good faith, who will take them by the hand and do them justice."

That was the problem that confronted the Constitution makers when they sat in that great Convention to frame the great Constitution under which we govern ourselves to-day. Was that the situation in 1894? Were we confronted with that problem or a problem of that kind? Was there any question of secession before the Convention? Was there a question of dissolution? Was there a question of territorial rights? Was there a question there other than that one section of the State, containing a majority of the voting population, should be deprived of its right to equal representation? Was it not purely a political proposition, and was not that the only basis for it?

It was, and that I contend with all the earnestness that I can control.

That there is no parallel between that provision of the Constitution and the situation presented in our Constitution in 1894, and which certain members of this body are seeking to perpetuate in this present Constitution is obvious.

I go into discussion of this proposition, gentlemen, because in the Committee room when this matter was under discussion, it was contended with a great deal of assurance and satisfaction that the action of this Convention can be justified and is justified by what appears in the Federal Constitution, and I feel that the members of this Convention ought to be fully apprised and ought to know the circumstances and the origin of that provision of the Federal Constitution relating to equality of State representation in the United States Senate.

The gentleman from Pennsylvania made this threat. He said: "This country must be united. If persuasion does not unite it, the sword will. The scenes of horror attending civil commotion cannot be described, and the conclusion of them will be worse than the termination of their continuance. The stronger party will then make traitors of the weaker, and the gallows and halter will finish the work of the sword."

Notwithstanding this threat, notwithstanding that declaration as to the declaration of civil war, the gentlemen representing the smaller States prepared a plan of secession and they were prepared to go through with it, and, consequently, there was nothing for the larger States to do but to unwillingly yield and to accept the proposition.

Mr. Morris, in discussing the proposition at that time, said: "On the Declaration of Independence a government was to be formed. The smaller States aware of the necessity of preventing anarchy, and taking advantage of the moment, extorted from the large ones an equality of votes. Standing now on that ground, they demanded, under the new system, greater rights, as men, than their fellow citizens of a large State. The proper answer to them is, that the same necessity of which they formerly took advantage does not now exist."

So you see from what I read to you, gentlemen, that there was no acquiescence on the part of the larger States or on the part of the founders of the country that there is such a principle that the minority can impose its will upon the majority and can compel the majority to yield and do the bidding of the minority or that the minority can determine and dictate to the majority as to plan of representation in legislative bodies.

You see from the statement made in the Convention that by means of extortion and under duress the larger States were compelled to yield. But I urge upon you, gentlemen, that such a situation does not appear before us now, did not appear in 1894 and that argument cannot be used because there is no support for it, there is no foundation for it, there is no basis for it, in fact or in truth or in principle.

The question involved in Judge O'Brien's proposition is of paramount importance to us of the city of New York. The aspirations of our city are to be the greatest city in the world, to be the leader in finance, in business, industry, art and science. Our growth, expansion and development are dependent upon the hearty co-operation and the sympathy of every Assemblyman and every Senator representing every portion of the State. They must sympathize with our aspirations; they must encourage us in our work; they must support our program and our progressive policy for greatness and expansion.

But in the past, particularly during the past year, and during the past two years, the policy of the members coming from the upper part of the State has been antagonistic to the program laid out and planned by those men who are interested in making the city of New York the leading city, the metropolis of the world.

I ask you gentlemen to reconsider, if you have already made up your minds on this proposition, and give New York city a square deal, give New York that equality and fairness of representation that New York is entitled to. We are simply making an appeal here for human rights. We are not asking for any unfair advantage. We are asking that when you come to consider the question of representation — that the question be considered with

the same fairness, with the same spirit of justice, with the same spirit of humanity that actuates you gentlemen upon every other proposition that comes before this Convention.

That Proposed Amendment has been reported adversely; that the Committee in presenting their report have also presented a Proposed Amendment to the Constitution in which the same sentences and other changes are omitted. That report also contains a minor amendment, on which I hope I may be permitted to speak a few words, especially as it will be found as I proceed that this subject is closely connected with the major question now before us. I allude to the amendment on page 2 of the Committee's Proposed Amendment, which reads as follows: "The Senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, according to the next preceding Federal census or State enumeration." I want to call attention to the fact that, although it is stated that the present State enumeration is to cost between \$400,000 and \$500,000, that consideration undoubtedly influenced the Committee in this report; it may nevertheless be impossible to dispense with a State enumeration. The representation in the Legislature of the State of New York is based on inhabitants, excluding aliens. The representation in the lower House of the United States is based on total population. If we continue our present practice, as we no doubt shall, I call attention to the fact that it will be impossible to discover in any public record whatever, the number of aliens in the smaller areas of the State of New York, covered by Assembly and Senate districts. The number of such aliens is published for the larger cities and counties, but not for smaller areas, and even when the census of the United States deals with aliens, they mean by the term males over twenty-one years of age. We mean in the State of New York men, women and children who are not citizens or naturalized. That observation now has a very close connection with the question we are considering, because in the eloquent remarks to which we listened yesterday from Senator Wagner and from Governor Sheehan, remarks so eloquent, so charming that we at times found ourselves carried away assentingly, without closely criticizing what they said, it was always implied, if I understood them correctly, that the representation of the city of New York was based on total population. We have the figures for 1905. The State enumeration for 1915 is not yet completed. Now, in the year 1905, it can be stated that nearly one-half, namely 49.8 per cent. of the total population of the State was in New York city, and it could also be stated that at that time 42 per cent. of the members of the Assembly and about the same percentage of Senators was held in the

city of New York, and the inference is then drawn that the disparity between 50 and 49.8 and 42 is very great, but, Mr. President, that is a disparity with which we, in considering this question, have nothing to do. The representation of the Legislature of the city of New York is based on total inhabitants excluding aliens. That is to say, it is based on citizenship, and when the deduction of aliens is made from the total population, it is found that in 1905 (and that is the last enumeration) New York city had 46.2 per cent. of the citizen population, and it had at the same time 42 per cent. of the members of the Assembly and the Senate. This slight correction accounts for about one-half of the disparity between the population and representation that has been brought before this Convention. No doubt it will be impossible under any system of representation to get accurate mathematical results, and the comparatively small variation to which I have just adverted is perhaps not of sufficient magnitude to warrant any radical change in the Constitution. In that form, it has not, I think, been described by any member of this Convention as justifying a radical change in the Constitution. On the contrary, the reasons which I am now adducing for making this radical change are of an entirely different character. It is stated, and I trust the gentlemen who have spoken will give me credit for endeavoring to reproduce their reason and their sentiment with perfect accuracy — it is stated that a larger representation for the city of New York is demanded in the name of inhabitants and justice; that there should be a perfectly accurate and exact correspondence between population and representation in the Legislature, and it is implied, and in some cases rather emphatically stated, that persons who do not share that view, either suffer from an undeveloped or atrophied sense of justice, or are dragged by the chariot wheels of some political machine. I do not plead guilty, Mr. President. I do not plead guilty to either of these charges. In dealing with this question, I have in my own mind and thought endeavored to be just and fair and conscientious, and while I plead guilty to the charge of being a Republican, I can nevertheless state that when the leaders of the Republican Party have, on different occasions, adopted what I considered false policies, I have never hesitated to say so, not merely in private, but in public. I approach this question, therefore, with the utmost desire of dealing wisely and fairly with the question before us, uninfluenced to the best of my knowledge with every effort to the contrary by parties and considerations of any kind whatever; and, Sir, I know of no better criterion for testing questions of this nature than the Constitution of the United States and the Constitutions of the several

States of the Union. We have in the Federal Constitution the noblest political document ever framed by the brain of man. No doubt in the form which it finally took, it was influenced by temporary occasions, circumstances and expedients, but two or three principles stand out with perfect clearness, which we must recognize, not only as fundamental in the Constitution, but fundamental in government. One of those, so far as representation is concerned, is the principle of representation by population. The other is the principle of representation by territory.

And, Mr. President, from these two principles there results the consequence that under the Federal Constitution it is absolutely impossible for a majority of members to control the government unless at the same time that majority is associated with the majority of the States; or, negatively expressed, no small group of States like New York, Massachusetts, Pennsylvania, Illinois, and a dozen of the larger States, no large group of States with a majority of the population can control the Federal government. You must have with the majority of the population a majority of the States or the votes of the representatives of those States.

The gentlemen who have spoken so eloquently and earnestly this morning have criticized the remarkably able and effective speech made yesterday by Mr. Clinton of Buffalo. Technically, I think the gentleman who is now listening to my remarks is in the right. I think that Mr. Dykman has shown that we have not in the Constitution of the State of New York a reproduction of the Federal conditions. I think he has shown that in the State of New York neither House stands for population and neither House for territory. And if that were the gist of Mr. Clinton's argument or of a large portion of that noble and effective speech to which we listened I should think the gentleman from Brooklyn had won a triumph over him. But I am very far from making such a concession. The fact is, Mr. President, and no one can dispute it, the two principles which we find imbedded in the Constitution of the United States in this matter of representation are also imbedded in the Constitution of the State of New York, the principle of population and the principle of territory. But whereas in the Federal Constitution each one governs one branch of the Legislature, in the State of New York neither branch of the Legislature is governed exclusively by either of these principles. Take the Assembly: The Constitution provides that all counties having less than a unit and a half ratio of representation shall have one member. It provides that all of the remaining counties, all having above a unit and a half, shall have two members, and it then provides that all the remaining counties which have above two units, that the remaining counties which have above two units shall have

apportioned among them in the ratio of their population the remaining members of the Assembly.

I submit, Mr. President and gentlemen, that in this Assembly apportionment you have represented both the principle of population and the principle of territory.

I turn now to the Senate: Mr. Dykman described with perfect correctness that the Constitution provides for Senatorial districts as near equal as may be. That, he said, showed that the Senate was based upon population. It would show that the Senate was based upon population, did that complete the story, but it does not, for in 1894, owing to the growth of cities in this State, the Convention found it necessary to supplement the principle of population by the territorial principle, and they provided that no two counties should ever have a majority of the Senate. I submit therefore that in the Senate as in the Assembly the Constitutional provisions regulating apportionment are based on these two principles.

Now, Mr. President, that does not conclude the case. I have endeavored to examine and to learn what other States in the Union are doing in this matter, and I have before me the record for every single State. It would take too long to read it, especially at this hour, but I permit myself to select a few cases, dealing first with the lower House and afterwards with the upper House. And you will see from the passages which I read that the principles of population, the principle of territory, and the restriction placed by territory upon population, characterize the life of the United States, the State of New York, and other States in the Union. The State of Alabama provides that each county is to be entitled to at least one representative,—I am speaking now of the lower House. The State of Florida provides each county is to have one representative at large and no county to have more than three representatives. That is Florida. Now with your permission, the lower House of Georgia: To the six counties having the largest population, three representatives each; the twenty-six counties having the next largest, two representatives each, and to the remaining, one each, the aggregate number of representatives not to be increased in making any apportionment. In Iowa, each county to be entitled to one representative. In Kansas, "each organized county to have one." In Maine, among counties as nearly as may be according to inhabitants, each town of 1,500 inhabitants may elect one; each town of 3,700 inhabitants, two; 6,700, three, and so on, towns with 26,250 or over, seven, but no town to be entitled to more than seven. You say Maine is a Republican State. Sometimes it is not. But Maryland as a rule is not. Well, here are the provisions for Maryland: "Each

county with a population of 18,000 to be entitled to two members; each county with a population over 18,000 and less than 28,000, three, each county with a population of 28,000 and less than 40,000, four; each county of 40,000 and less than 55,000, five; each county of 55,000 and upwards, six members, *and no more.*" "New Hampshire: towns, cities and wards having 600 inhabitants may elect one representative." North Carolina, among counties according to population, each county to have at least one representative although containing less than the ratio. Oklahoma, each county containing one-half the ratio to elect one member, and so on and so on, "provided that no county is to take part in the election of more than seven representatives." Pennsylvania, each county to have at least one representative, but no district to elect more than four representatives. Rhode Island, each town and city to be entitled to at least one member. No town or city to have more than one-quarter of the whole number. South Carolina, each county to have at least one representative in spite of deficiencies of population.

But, Mr. President, I must not take too much time in reading here passages that I have marked for reading. I will call attention to two or three more, and I pass from the Assembly or lower House to the Senate. Here is one from Maryland: Each county to be entitled to one Senator, the city of Baltimore to be divided into four districts of equal population and of contiguous territory, each district electing one Senator.

Montana: The State to be divided into districts but not more than one Senator to be elected from each county.

Pennsylvania: The State to be divided into fifty districts of compact and contiguous territory, as nearly equal in population as may be, each district to elect one Senator, no city or county to be entitled to separate representation exceeding one-sixth of the whole number of Senators.

Now, Mr. President, I submit that these facts which I have gathered from the Constitution of the United States and the different States of the Union amply vindicate the justice, the wisdom and expediency of the present provision of the Constitution.

I do not want any one to have even the semblance of an opportunity of saying that I seek, in the slightest degree, to disparage the great city of New York, of which I am sure every member of this Convention is proud; but I do not hesitate to say, for myself, that I should think it a calamity if the great State of New York ever put it in the power of any one city to dominate the State.

Every city should have home rule. No city should have State rule.

Finally, Mr. President, I want to point out that there is a way, in which, if the representatives from New York are not satisfied with the provision of a Constitution which is supported by the concurrent constitutions and practices of the United States and so many States of the Union, there is a way by which a modification might be made that would, perhaps, be acceptable to them.

I do not believe in increasing the power of any one city so it could ever control the State. But, if we make the absolutely impossible supposition that on some issue the city of New York was absolutely united and had sent here a solid phalanx of Senators and Assemblymen in favor of that policy, and if we suppose an equally absurd supposition that the rest of the State was united in a solid phalanx against that proposition, then there ought to be, conceivably, some way of solving this inconceivable task.

The way, however, is not by increasing the power of any city. The way is, to recognize that this is a State, and, being a State, it is an organism; that being an organism, every member is essential to every other member, and that if any portion wants to exert more influence than it enjoys under the wise and just provisions of the present Constitution, it can exert that influence through the State, of which it is a member.

For that reason, among others — the others I do not state to-day, because the question is not before us — I have submitted to this Convention a proposal for Senators-at-large, and although the Committee presided over by my distinguished friend from Saratoga county has done me the honor of voting it down, when their report is presented I intend to move that it be referred back to the Committee for further consideration, and I am not without hope that the chairman, and his associates on that Committee, will be disposed to accept it in the form in which I shall then lay it before them; that form is, that, leaving the present provisions of the Constitution regarding representation unchanged, both in the Senate and Assembly, the Convention submit to the people a proposition providing for the election of Senators-at-large.

Mr. McLean — Mr. President and Gentlemen. I shall address you very briefly, and I rise more particularly to express my feeling in regard to certain views that we have listened to rather than to set forth any special views of my own. Of course I need hardly say to you, Mr. President, on the broad ground of the principle set forth by Mr. Dykman and other distinguished members of this Convention — on the broad ground of principle, I am entirely in accord with them as I take it nearly everybody else is. But we have not only got the situation involving the discussion of principle, but we have also the situation that requires us

to give attention to what might be called special circumstances and conditions that may justify a slight departure from those normal rules of action. Now, when it has been said, as it has been said here over and over again, and to that extent I beg to express myself as a member of the Democratic Party — when it has been said that the normal principle of democracy calls for majority rule, I desire, of course, to place myself unmistakably on the side of those who affirm that proposition, but when it is proposed to go farther and argue from that central proposition that there is something in democracy which forbids the party, the party members and the party leaders, from taking cognizance of conditions that call for special consideration, I take the liberty of dissenting. In this case it seems to me, after having listened to the admirable discussion we have had, and I am sure it is a great privilege to be here and listen to such a discussion — it seems to me that we have a situation which calls for the exercise of the practical, as distinct from the theoretical judgment of the members of this Convention.

The point which I have in mind was indicated by Mayor Low when he spoke yesterday, and of course he was supported in another way by the gentleman to whom you have listened with so much pleasure (Mr. Schurman), namely that we might meet the real requirements of the case by allowing, in common language, the minority, as it were, or the conservative influences of the State, as it were, to profit by the existing distribution of Senators, to that extent protecting, if protection be necessary, the great conservative interests of the State against any danger we may apprehend from the recent and the possibly ensuing great aggregation of somewhat unassimilated elements from abroad. On the other hand, we must also, of course, protect the majority against any rule of the minority, any danger from the minority, and that, I think, as has been suggested, would be covered by giving you an Assembly based actually upon population. And while it is true beyond a question that there is no real analogy between this matter in the State of New York, dealing with the counties and the relations sustained by the State to the Federal government — there is no real analogy, no legal analogy, no analogy, indeed, in any philosophy. There is one practical suggestion to be made and that practical suggestion is this, as every one knows, and it is unnecessary to remind the older men: the question before that Constitutional Convention fundamentally was, can we get a government of the people, established upon broad, liberal principles, with the concurrence of the conservatives, whose concurrence is indispensable, and who may, indeed, be troubled by fears of popular will, which will be practicable? Now, to that extent, we know

what they did. Of course it is idle for Democrats, of whom I am one, to sit down and mock each other, and talk about our party, as if our party was committed to nothing but the narrow rule of the majority.

There is no such Democratic principle, there never was and it cannot be conceived there is such a principle. The fundamental principle is there. It is regulated, but never since there was a Democratic Party has there been any hesitation in the party statesman recognizing the fact that you can have conditions which call for a modification of that principle. There is no doubt about that whatever. Now, the only practical question is, have we got special conditions in the State of New York that call for a modification, and even if we agree among ourselves that the fears expressed in some quarters are entirely groundless, holding as I do the most complete confidence in the elements that constitute the population of New York, none the less if there be misgivings in the minds of a considerable number of your own people, whom you know to be loyal, you ought, if possible, to meet them. You ought to be in a conciliatory and compromising mood, if I may say so, and it is along these lines, Mr. President, that I simply desire to say, first, that I agree with the spirit, if not with the letter, of the feelings that have been expressed by ex-Mayor Low. I think his mind is set in the right direction. I think, with him, that we would gain something if we were to remit this general subject for further consideration at the hands of the Committee. I feel confident that the members of the Committee cannot fail to have profited by the discussion that has taken place on this floor. I think it is not unreasonable to expect that they will perhaps approach the trouble in a somewhat more conciliatory — if I may be allowed to say it — a somewhat more conciliatory spirit than when they first drew the report; and in the second place I desire also to say, in the most emphatic terms, particularly that it will be necessary for the information of my younger friends that there is positively no party here. There is positively no principle on which the parties can be made to divide diametrically. On the contrary, you have really a fundamental and practical custom on which it is the duty of every person on this floor to exercise a judgment, wholly unbiased, wholly unaffected, by any party influence or party demand. In the third place, I desire to again express the extreme pleasure with which I have listened to the debates on this floor.

Mr. Byrne — Mr. President and Fellow Delegates: I regret exceedingly that I must differ with some of the remarks of Mr. McLean. I have from my boyhood days admired and respected him, and I want to assure him now that whatever I may say I

still have for him the highest respect and esteem. He began his remarks by saying that there can be no question in the mind of any man in this Convention hall, but what we are right in principle, but, using an expression which is becoming quite common nowadays, there being no such thing as finality amongst friends, he wants to resubmit the proposition for further consideration. Gentlemen, as a member of the delegation from Kings county, I say, if we are right in principle, I refuse to sacrifice it to expediency.

On my way to the Convention hall this morning I purchased one of the papers edited in this city. One of the headlines was — after speaking of Senator Wagner's address and Governor Sheehan's and the others — "but the proposition of Judge O'Brien is bound to be beaten." I wonder how they knew? I wonder how they decided it, before we had finished the discussion, that we were bound to be beaten, and I feel as I stand here now, advocating the principle introduced by Mr. O'Brien, as I might feel were I standing before a jury in Saratoga county with a mighty good case, but Senator Brackett would have the jury.

Gentlemen, when we entered this hall, one of the members from Kings county, in order to emphasize the nonpartisan spirit which seemed to be around the Chamber, in voting for our honored President, said he did so to emphasize that spirit. If there was in this hall shortly before we entered it a spirit which was not a spirit of nonpartisanship, if as has been said, and I merely quote from what appeared in the public press, there was a spirit of "we can get away with anything," I hoped and believed that that spirit was banished from this Chamber when we entered it. I do not intend to argue on the merits of the proposition itself. To my mind, and I have no pride of opinion on this subject, I might as well stand here and argue to you that two and two make four, as to say that we are not entitled to what we demand in the city of New York. Gentlemen, I know the country. Mr. Rosch of Liberty lives up on the hills of Sullivan county and he knows me. I lived long enough in the country to make them forget that I lived in the city. I sat around the fire on the long winter evenings and heard them tell, after the "city folk" had gone home, how they did them and laughed about it. Why, they regard us, gentlemen, as something between a fool and knave. We are a fool while they are blocking us and we are a knave if we assert our rights. Well, gentlemen, we have some rights down at the other end of the State, and amongst those rights is proper representation in the Senate and Assembly. I want to say to you this is not 1894. The conditions which existed at the time this Convention was carried do not exist to-day. The people of New York

city are asking, "How is it we are paying such a great percentage of the taxes of this State? How is it we have got to go down in our pockets to such an extent?" I say to you gentlemen, and I don't think you will deny it, we may vote as Democrats in the city on many propositions, or as Republicans, but when the citizens of the city or the country begin to vote and you have touched their pockets, they are going to vote for their pockets. Oh, what have you to fear from the city of New York? Senator Wagner said yesterday that it was with a boldness of a Captain Kidd that this Committee introduced this amendment. Oh, no; it was not. If I know anything from reading about Captain Kidd, he never hesitated to hoist the black flag of piracy when he was going to attack his victim. This thing is sugar-coated — this amendment. The gentleman from Niagara yesterday dangled before our eyes a promise of home rule for cities. It was promised before, in another Convention. We have not come to that yet. We will discuss home rule for cities when we come to it. I regret that the first mayor of Brooklyn, whom I remember, as I learn from the introduction of the Chair, is no longer a member or citizen of the county of New York, but has joined the colony in Westchester, and I fear that some of the virus which exists in Westchester has crept into the blood of the gentleman I have always admired.

Mr. Low — I think the facetiousness of the President is responsible for a misapprehension. I am, as I have always been, a citizen of New York.

Mr. Byrne — I am delighted to hear it, Mr. Low, and that when you come to vote on this question you will vote as a citizen of the great city of New York.

Mr. Low — In this Convention, my mandate comes from the State of New York, and I must vote as I think the interests of the great State of New York demand.

Mr. Byrne — And, Mr. President, my mandate comes from the State of New York, but when I come to vote on behalf of the citizens of the State of New York, I won't pick out any two counties and put them aside, as if they had some disease; I will vote for the counties of all the State.

Gentlemen, I have taken up much more time than I intended. I had no notion when this question came in here yesterday morning of speaking on it all all, but to my mind, there are two questions which will come before this Convention, which will be of most importance.

The word "junk" was used here the other day. Well, there has been a lot of junk introduced, and I suppose it will find its proper place in the basket, but taxation and apportionment are the two questions that we talked upon in the last campaign.

My friend, Mr. Latson, and I had the honor one evening of defending our parties in a debate. He was selected to speak for the Republican Party and I was honored by being requested to present the views of the Democratic Party, and also a prominent Progressive. I spoke first, then Mr. Latson, and then a prominent Progressive, and then a Socialist, and the Socialist cleaned us all up.

But, gentlemen, when the Progressive spoke of this particular measure in the Constitution, a Progressive, mark you, and was urging upon the audience the necessity of voting for delegates to this Constitutional Convention, he described that section in language, and he spoke of the men who put that through, and Mr. Latson heard him — he spoke in language that, were I to repeat it here, would be declared unparliamentary.

The people of the city of New York, gentlemen, are waiting to see what you are going to do. Governor Sheehan said yesterday, or intimated, at least, a question in regard to the separation of that end of the State from the rest of it.

Oh, do not, gentlemen, do anything here that will fan that little flame into a fire.

In conclusion, I have only this to say: I trust that the day is not far distant when men in representative assemblies shall forget they are Democrats, forget they are Republicans; shall remember the old maxim "*Vox populi suprema lex*," the voice of the people is the supreme law, the voice of all the people, and when they come to vote upon a measure they shall vote upon it as representatives of the people, and I trust, gentlemen, when you come to vote upon this question you will vote as your intelligence and your conscience dictate, and if you do, I have no fear of the result. Thank you.

Mr. Parsons — If the provision in the Constitution which Judge O'Brien's amendment seeks to strike out operates as a restriction against the city of New York, it has, as Doctor Schurman has indicated, distinguished precedent. I desire to add to the illustrations which he gave some illustrations of what has been done in sister States where there are great cities.

The State of Pennsylvania provides that no city or county can have more than one-sixth of the Senators and the great Republican city of Philadelphia, which numerically is entitled to ten Senators, is by that restriction confined to eight.

The State of Missouri has restrictions in regards to its House of Representatives which operates so strongly against the city of St. Louis, which is the Republican stronghold in the State of Missouri, that although on a population basis the city of St. Louis should have twenty-eight representatives in the lower House, it

only has sixteen, and those represent, on an average, 43,000 population, whereas there are many counties, and in that State every county is entitled to one representative where there is less than 10,000 population.

The State of Maryland restricts the city of Baltimore to four Senators out of twenty-seven, although on a population basis it should have eleven, and it restricts the representation of the city of Baltimore in the lower House to twenty-four out of 101, although on a population basis it should have forty-three. Each Senator from the city of Baltimore represents a constituency of 140,000, although there are six Senators in the Senate of twenty-seven in the State of Maryland who represent a population of less than 18,000 each; and each member of the lower House in the city of Baltimore represents a population of 23,000 although the ratio for the rest of the State is 9,000.

So that, if this is a restriction, there is distinguished precedent for it. But in its practical operation this provision does not act as a restriction upon the city of New York. It is not aimed against the city of New York as a whole. It does not apply to the city of New York as a whole. It only applies to two counties as they were when the Constitution of 1894 was adopted; and practically that means the county of New York, as it then was, including a large part of The Bronx, but not the whole of The Bronx, and the county of Kings, which is Brooklyn.

Now the county of New York as it now is has about reached its limit of population. The county of Kings has not, and yet I venture to say that in the next twenty years the greatest growth in population in the city of New York will be in the county of Queens and in the county of The Bronx, and in The Bronx proportionately in that part which is not covered by this restriction, because the old annexed district was added after the Constitution of 1894 and is not to be counted in under the restriction, and the new subways will greatly increase population in the annexed district.

Now, when the present apportionment was made, made in 1905, pursuant to the provisions of the Constitution, so carefully worded, it was not the county of Queens, to which Senator Dykman called attention, which was most unlucky, it was the county of Westchester, and that was not due to the fact that any unfairness was granted to the county of New York. I was surprised that my friend, Mr. Baldwin, and Senator John Godfrey Saxe, who is an authority on elections, should have suggested that there was any unfairness so far as Monroe county was concerned, as against Queens or Westchester, for if there had been any unfairness, they could have gone into the courts and, under that

very valuable provision which is in the Constitution, they could have had the unfairness corrected; and in that connection, let me say that I dispute the statement which has been made here at times that this Convention could make a fairer apportionment when it comes to drawing of districts than could the Legislature, and I say it for this reason, that if the Legislature makes it, then, if it does not comply with the very careful provisions in the Constitution, the most exacting of any Constitution of any State in this country, if the Legislature does not comply with these, the matter can be taken to the courts and there corrected, whereas if we should make it, the courts would not have jurisdiction.

It was not Queens, it was not Westchester, that was unfairly dealt with in 1905; the fact was that Monroe then had a larger citizen population than either Queens or Westchester. Westchester came next and Queens after that, and the counties which only had one Senator each, but might have had two. And I venture to say that under the new apportionment, the citizen population of Monroe will be greater than the citizen population of Queens or of Westchester, for in considering this subject, we must at all times bear in mind that in the city of New York we have a very large alien population which does not count at all in the apportionment which is to be made. The Constitution provides that the apportionment shall be based upon citizen population. Judge O'Brien's amendment does not seek to change that. Every figure cited by Senator Wagner, every figure cited by Governor Sheehan, was on total population, giving an entirely erroneous impression, because it did not accord with the facts as they are relating to apportionment. Now, what is the citizen population to-day in this State?

We have not at hand yet the figures from the State census. The figures from the Federal census are of no avail for the reasons pointed out by Dr. Schurman, and the nearest approach we can make as to what the citizen population is is to take the vote in the State and its subdivisions in the last Presidential election, the Presidential election when the State went Democratic.

Now, what do the figures show? They show that, altogether, there was cast in the State, for President, 1,588,315 votes, and that of those votes there were cast in New York city 665,273.

Now, on that basis, distributed among fifty-one Senate districts, the present number of districts, the city of New York would be entitled to twenty-one and three-tenths — a little less than twenty-one and three-tenths Senate districts.

The city of New York, excluding Richmond, already has twenty-one Senate districts, and Richmond with Rockland makes twenty-two. Richmond has more than three-fifths of the population of that Senate district, and virtually, therefore, New York

has twenty-two Senators, when, on the basis of the vote in the State, representing, as I believe it does, the citizen population in the State, it is only entitled to twenty-one and three-tenths Senate districts.

Therefore, as I said, while, if this did operate as a restriction, there would be distinguished precedent for it, as a matter of fact it does not operate as a restriction. It is not so operating to-day, and it is, for the reasons I have pointed out, still less likely to so operate in the future.

Mr. Brackett — It is well, Mr. President, at intervals during the debate, that we come back to the question, the precise question, we are discussing.

I beg, therefore, to call the attention of the Convention to the language of the amendment which is offered by the learned delegate from New York, Judge O'Brien, and with the view of seeing exactly the questions that are involved therein, and which we must decide by the vote which we are to take.

Passing the question as to when there shall be an enumeration, and coming now to the only real questions that are involved in the discussion, we find that there are two propositions involved in the Proposed Amendment.

The one is that there shall be stricken from the existing Constitution the limitation which provides that "No county shall be divided in the formation of a Senate district except to make two or more Senate districts wholly in such county," and the other is, that "no county shall have four or more Senators unless it shall have a full ratio for each Senator. No county shall have more than one-third of all the Senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the Senators."

It is, therefore, evident that by this proposition to strike from the existing Constitution the limitations which I have mentioned, it is the purpose of the distinguished delegate, who introduced the amendment, to precipitate here the discussion and to have the vote upon the general proposition as to whether there shall be any limitations whatever, on the rule of population in the Constitution which we are to propose to the people this fall.

I am glad that the discussion has arisen upon this proposition of the gentleman from New York. The Committee on Legislative Organization, with a view to precipitating precisely such a discussion, has reported to the Convention a proposition which involves the converse of this.

It was not with the view of presenting a finished amendment to the Convention that this was done; it was not with the view of finally moving its advancement or adoption, but solely and only

for the purpose of obtaining from this body an expression of opinion, which we will obtain upon the pending question and then, having obtained that expression of opinion, and being thereby guided as to the conclusion whether there shall be continued limitations in the Constitution, the Committee will take back the report as made, and seek to propose a finished product.

I appreciate, Mr. President, in the language of the delegate from New York, Senator Wagner, that we are dealing with rights that are sacred. I would not stand in this place a moment in advocacy of a proposition which I did not believe to be good not only for the State of New York but for the city of New York itself, and I want to stand for the proposition from now until the end that in any question of limitation which is involved in the proposition before the Committee, as reported, the converse of which is involved here — I want to stand for the proposition that we are doing a truer service to the city of New York than are those gentlemen who are advocating that she should have unlimited control of the legislative policies and of the politics of the State. When we save you from this proposition we save you from yourselves, and you can do no more harmful act in this Convention, you who represent distinctively the city of New York, than to press to final success the amendment which is here pending. I would hold my hand in the fire until it was consumed before I would consciously do a wrong to the great city which is our pride as a municipality, but I cannot stand a single instant for the proposition that that great city or any other similar locality in the State, even it were my own beloved Saratoga, should hold power that should control in a single district the policies of the State.

We have a right, Mr. President, in considering this proposition to go beyond the city of New York itself. We have a right to consider this question on broader grounds. What is done that is done well in the service of the State is done well in the service of the city of New York. And in saying this I do not mean to be regarded, and I hope that at least I will not truthfully be regarded as one Senator from New York saw fit to characterize the members of the Committee, an enemy of the city. I am not here seeking to take away a single right that is inconsistent with good government. We are here seeking to incorporate into the Constitution a proposition which enlightened, modern sentiment has determined to be the only safe and the only true one, as I believe I can presently demonstrate to you.

In discussing this question and in deciding it we have a right to look to the concurrent action of the States of the Union. In deciding this question for the great Empire State we have a right to call up, as the learned delegate from Tompkins did call up,

what other States acting under similar conditions have done. It stands to reason that if we find a general concurrence of action on the part of the States looking in the direction of the proposition that no section, however greatly populated, should have absolute control of the State; if they, considering the question in their particular capacity, have decided that it is not proper that the policy of the State should be controlled by any one municipality or locality, we have a right to consider that in the wisdom of these other States we may find a proper precedent for our action here to-day.

Many instances have already been given, but let us see for a moment what the States, based upon the problem with which we are wrestling here, have done, and how they have met and solved the question. The population of the State of Pennsylvania, Mr. President, is 7,665,111. The population of the city of Philadelphia is 1,549,008. The population of the city of Pittsburg is 533,999. Pennsylvania is peculiarly and more favorably situated than is the State of New York in this — not much but slightly — that it has two great centers of population which can be held to, in a measure, balance each other, and to equalize the evil of having one municipality control the whole State.

We have that in somewhat lesser degree in Buffalo, but Pennsylvania, in approaching and in deciding this question, in its fundamental law saw fit to insert the proposition that no city or county should have more than one-sixth of the members of the Legislature. Do you say that we approach this in a partisan spirit? Do you say that we are seeking to get an advantage? I point you to the action of the great Republican State of Pennsylvania, and what did its course act upon? It acts upon the great Republican city of Philadelphia, and it is there that this great Republican State has seen fit to put into its organic State law that the great Republican city of Philadelphia shall never be permitted to control the policy of the State or its legislative enactments. Florida — if you want Democratic doctrine, you can have it in great chunks, for we have it here by the bucketful — Florida is perhaps a State to which we should not go for any great wisdom, although it has men of parts and statesmen, but perhaps it is not the most progressive State in the Union. I do not by that mean a political progressive State, but I mean an advancing State, but it certainly is good as a Democratic proposition, and it is something that at least should stop you gentlemen from saying that there is partisanship in this. Florida declares that no county shall have more than three Senators; Georgia the same; Maine, that no town shall have more than seven, which is much less than the ratio that some of its cities would be entitled to. In Maryland, Baltimore has, and never did have more than four, under the existing Constitution, which is

far below the ratio in the country, and its representatives are in the same way. Missouri: St. Louis has but seventeen and never can have but seventeen, which is far under the ratio. Take the State of Minnesota: I had the good fortune to have a well-informed gentleman from that State here at my side this morning; Minnesota has a population of 2,200,000. Minneapolis has 325,000. Minneapolis is a great city. The total Senate districts in that State are sixty-six, and Minneapolis now has nine. If it had the full quota, it would have eleven. It has but nine. I wish to say that, because she has grown since the quota was fixed, there is to-day a proposition in Minnesota based on the contention which we on this side of the Chamber are making here, that Minneapolis, instead of having more, shall have its representatives cut to seven. That proposition was once before submitted to the State of Minnesota, and while it failed of adoption in that it did not receive the requisite number of votes, a majority of the people, who voted on that proposition at all, voted in favor of it; so that hereafter, if that proposition shall carry, hereafter the city of Minneapolis instead of having its full quota will be forever confined to seven.

In the Kentucky Constitution, I find this provision: That if in making districts inequality of population shall be unavoidable, any advantage resulting therefrom shall be given to districts, what? To districts having the largest territory, representing the propriety of considering territory and acreage in making up the districts.

In the Convention of 1894 — and I want to pay my respects in passing for a single minute to the suggestion that the present limitation was put into the Constitution by proceedings done in a corner, as intimated on behalf of some of the members speaking for the city. After, as I recall, a three-days' debate on this proposition in the Convention of 1894, the existing limitation was inserted. Summing up the reference to the various States to which I have adverted here, Mr. Choate, in the language which is his own and which clearly expresses the situation, of course, says this: "Now, Mr. Chairman," having given the reference to various of the States which I have given and some others in addition to those to which he referred, "now, Mr. Chairman, those are the doctrines which have been accepted and acted upon by States that have studied this subject under circumstances that could have been, by no possibility could have been actuated by politics. It is the developed science of apportionment on just and fair and honest grounds," and as judged by any such standards, ours is far within the mark to which the majority of the body might well have carried, and that is what I have to say with respect to the unjust and outrageous suggestion that we are here seeking to inject poli-

tics into the situation, and as Republicans are seeking to do an injustice to the Democrats of the State.

We have, then, Mr. President, a sufficient, and not only a sufficient but a widespread authority for the general proposition that no municipality of the State, and no political subdivision of the State, no matter how great or how populous, should ever be permitted to have a majority in the legislative halls of the State. Let us, then, having this warrant in the precedents to which I have adverted, see what have been the results that have worked out in the last twenty years from the present limitation. Some reference has been made by the learned gentlemen who have spoken on the other side, or some of them, to certain results which were brought about prior to 1894. Of course no precedents prior to that time can give the slightest help in seeking to solve the question we are here considering, because prior to 1894 there were no such limitations, and, therefore, I shall confine myself in the illustration to which I want to call the attention of the body, to the results that have come under this limitation since it was inserted in the adoption of the Constitution of 1894.

The learned delegate from New York, Senator Wagner, has given figures of population which he has termed as "eloquent," and he was quite merry in describing and commenting upon the figures of the Thirtieth district.

Mr. President, I appreciate the limitations of the Thirtieth district. I appreciate that it is not rich in this world's goods. I appreciate that it has no large men of influence within its borders who can come out and who can cope in discussion with the gentleman from the city of New York. And, when it comes to culture, physical culture, I know that their culture which is derived from the holding of the handles of the plow and from wielding the jack-plane and the hammer cannot compare with the culture which comes from wielding the golf stick and the tennis racket.

But, Mr. President, it has been my pride and privilege to have lived among the people of the Thirtieth district forty-three years, this fall; and I know that, with all the limitations they have, that with all the lack of opportunities in many of the directions which the district of the Senator, who saw fit to make merry at them, affords, I know that there are no hearts anywhere in the world which beat truer to the principles of the Republic and the State than the hearts of the people in the Thirtieth district. I have tested them for forty-three years. Please God, I mean to test them to the end, and I hope that it may be when the end comes that my dust shall be mingled with the dust of that splendid people.

In 1915, under this limitation which is so harrowing to the political soul of the Senator, the total votes that were cast in his

district, bound with the rope, as the delegate from New York, Mr. Baldwin, said this morning, the rope straining to the breaking point, the total vote cast in Senator Wagner's district was 21,523, while the vote that was cast in the Thirtieth district, with no binding at all of its limits, utterly free to rove over the whole territory; to have a law passed that should bind down New York, but should give it the broadest expansion and thereby should require that there should be a great many more votes to send a Senator to the Senate than was required to send the Senator from the Thirtieth district — the vote from the Thirtieth district was 23,088, or about 2,500 more than the vote of the Senator from the city of New York.

I saw such an approval of Senator Wagner's remarks on the part of Senator Foley, when the Senator was rolling up the toll of figures with which he was delighting himself and us, and I thought I would look up what Senator Foley's district did in the way of giving out votes under this restriction, and I found that, while the Thirtieth district, as stated, had given 23,088, Senator Foley's district only could muster altogether 19,248, and really and truly I do not think, therefore, that the oppressed voters of the districts of Senator Wagner and Senator Foley need cry aloud. They must dig up more votes on election day before they can find fault to me that they are being hampered and distressed by the present limitations.

The Westchester district, a country district and not covered by any limitation in the present Constitution, at the same time that 21,000 voters in Senator Wagner's district were expressing their preference as to whether or not his distinguished services should be continued in the Senate — when I say distinguished services I mean distinguished services — while 21,000 were wrestling with that question in his district, and 19,000 in the district of Senator Foley, 47,000 voters had to come to the scratch to decide the question who should be Senator from Westchester, and when it came to Albany — poor old Republican, abused Albany, which if the legislation of apportionment was in control you would suppose beyond anything would have been favored among men — poor old Albany county had to cast 45,274 votes before Senator Sage could come to the Senate. Why, Mr. President, if you please, at that same election, there were even less votes in the city of New York than the districts to which I have referred. In the Twentieth district there were but 18,333. In the Fifteenth, but 17,843. In the Fourteenth, but 19,248. In the Twelfth, but 19,528, and in the Eleventh, but 18,355.

Mr. F. Martin — Will you kindly look at the Twenty-second district of New York, which you have skipped over several times, and show the vote in that district?

Mr. Brackett — I will, just as soon as I can. I can't stop my speech for it.

Mr. F. Martin — There were 53,900.

Mr. Brackett — All right. We will look up that and see whether the delegate is absolutely right. Taking it now in the large, let us see the figures. I have given you some totals of districts. The question is still an academic one, and if there was no limitation in the Constitution to-day, you gentlemen of the city of New York would not have certainly to exceed 45 per cent. and I believe 40 per cent. of the vote of the State. See what the vote was last fall. In The Bronx there were 80,574 votes cast. In Kings county 230,028 votes were cast; in Manhattan, 240,842; in Queens, 55,453; in Richmond, 14,384 — a total in the greater city of 621,281. What did the country districts cast? The total vote in the State was 1,486,875; deducting from that the 621,281 cast in the city leaves 865,594 for the State, a majority of 224,313 upstate over and above the most that were given in the greater city of New York. And that is the way you are limited and bound with a rope until you get so big you almost burst the binding.

Let us take the comparison between Queens in the greater city and Westchester in the country. Each of them has one Senator and much has been said by some of the speakers on the injustice that is done to Queens. The population of Queens is 284,041; its vote was 55,453. The population of the county of Westchester out of the greater city and not affected by any limitation is 283,055, 1,000 less than Queens and it cast a vote of 49,227. I want to say to the delegates to this Convention that when an apportionment gets so that there is only 6,000 difference in votes for the same representation in legislation you are getting about as close as you can.

Now my beloved friend who grew up and got his greatness in Erie and then went to New York to develop it put the tremolo on his voice when he came to considering the injustices that were done him, how he was required to have more associates in his district to help him elect a Senator in the Legislature than was his friend Quigg. In the district where the gentleman lives there was cast 17,843 votes for Senator. In my Brother Quigg's district, running rampant and without any limitation — my Brother Sheehan is bound down by the iron rule of the Constitution — there was 27,771 votes cast, or 10,000 more. I mingle my tears with Brother Sheehan's.

In determining whether any proposition is wise to be adopted or not, it is well for us to consider a little the source from which the proposition comes and then to get a little of the history of those desiring the change, to see what they will do if they get the change.

Now I am not meaning to be mean about this proposition. I have as many dear friends in the city of New York as most any country man that sits in this body and I love them just as dearly, and individually they would scorn a mean thing as quick as any one from Saratoga Springs. But it does seem, Mr. President — I am not injecting politics here — it does seem that some of them when they get together for the purpose of taking political action can think of and do the meanest infernal things that ever happened. And now let us see what these brethren who are so anxious to tear the flesh and draw the life of the country by having this proposition of Judge O'Brien adopted — what they have done when they had a chance — and what they would do again. (Applause.)

The President — Will the gentleman suspend for a moment? Of course rules of order must be applied in a reasonable way, but the Chair calls the attention of the Convention to that fact that applause is a violation of the rules which obtain in all parliamentary bodies and, in fact, the violation of that rule is becoming very frequent so that it has this morning become almost a custom and the Chair hopes that the members of the Convention will come back to the observance of the general rule unless circumstances of an extraordinary character make it beyond the strength of the human will to apply that. (Applause and laughter.)

Mr. Brackett — Mr. President, I tried my best to restrain them from applause, and I could not.

Let us see what the gentlemen who are here seeking that this restriction shall be removed from the present Constitution with respect to the apportionment of the State in legislative matters have done when they came to apportion with respect to congressional districts.

This power was exercised recently by a Legislature controlled by the representatives from the greater city. There were forty-three Congressional districts created; twenty-three in New York city and twenty outside. Well, they will say to that, we were forced to do that because the population was such that we had to do it. Let us see a minute.

At the election of 1914, the twenty Congressional districts, outside of New York city, cast 820,000 votes, an average of 41,000; the twenty-three districts in New York city cast about 633,000 votes, an average of 27,500, as against the average outside of the city of 41,000. And the Congressional district in which is situated the city of Albany, and whenever the Democracy, or the city — I am continually referring to the Democracy, and I don't mean it — but whenever the city of New York gets an opportunity to take a crack at Brother Barnes, you will find them putting it on good and hard — the Congressional district of which Albany

was a part cast 55,022 votes, and the defeated Democratic candidate in that district, the man who was defeated, received more votes than the elected candidates in the city in the Twelfth, Thirteenth and Twentieth districts.

The average of the Congressional districts in the country, as I have stated, was 41,208, and the average of the districts, of the Congressional districts in the city, was 27,522.

There were elected last fall to the State Senate thirty-four Republicans and seventeen Democrats. The average vote for the elected Republican candidate was 14,600; the average of the Democratic Senators elected was 13,000.

Mr. Wagner, the Senator and delegate who has spoken here — Senator Wagner was, himself, elected by receiving 11,143 votes, that and no more. Eleven of the elected Democratic candidates received less votes than the Democratic candidate in the Albany district, who was defeated by 12,000 majority, or a majority against him much greater than that cast for each one of the elected eleven Senators; and the combination of almost any two Congressional districts in Greater New York city.

With this inequality of 27,000 votes required in the city and 41,000 in the State, in Congressional districts, let us compare the apportionment as it stands for the Senate to-day. The average in the city is 28,424; the average in the country is 28,589.

Let us consider the question a little in the aspect of the national treatment of the subject. Nevada has a population of 81,475. Under the Federal system, the propriety of which I do not know as any one challenges, Nevada is entitled to at least one Congressman. Wyoming has a population of 145,965, and it, of course, has at least one Congressman.

The district composed of Sullivan, Ulster, Greene, Columbia and Schoharie, has a total population of 223,304, which is about three times what the little State of Nevada has, and yet it, under the Federal system, has one Congressman, while the district having three times as many in this State has but one Congressman in the district. And there are States, Arizona, Delaware, Nevada and Wyoming, all of which have a less population than single Congressional districts in this State.

What then, Mr. President, is the true rule that we should adopt? The learned gentleman from New York, Mr. Baldwin, says that representation in its terminology is equality. I deny the proposition. It is if it is, it is not if it is not. Representation in the Federal Legislature is not equality. The equality is brought about, if it is brought about, by the combination of the two systems which we want to urge here in opposing the Proposed Amendment. The absolutely true rule, following the analogy of

the Federal system, would be this — and in claiming any less than this we are yielding in our affection for the city of New York, from what the country is absolutely entitled to — the Assembly should be strongly and literally and, to the last degree practicable, made up on population and population alone, and that makes it the popular House. But when we come to consider what should be the representation in the Senate we should then, in analogy to the representation in the Federal government, have one Senator for every county in the State, and there you have a perfect balance and a perfect protection for both sides. And let me say to the delegate from the city of Brooklyn whose incisive and unanswerable statement in his speech every one recognizes, let me say to him, I am glad he did, but in trying to conciliate, he did what was entirely unnecessary so far as the Committee was concerned, so far as I know the feeling. The Committee is willing to go forward seeking to make satisfaction for everybody in this connection from whatever point he comes. There will be not only an attempt to conciliate, but the representatives of the city of New York will be met away down the lane more than half way.

Speaking on behalf of those who represent country districts or who live in the country districts, let me say that so far as I have tested the temper of this Convention in private conversation there is no one who does not want to do the manly, fair and decent thing, in attempting to prescribe the rule upon which representation shall be had in the Legislature. Is this rule of the Federal Constitution such a denial of sacred rights as the learned gentleman from New York, Mr. Baldwin, insists? Is there anywhere a violation of the Republican form of government? Why, he invoked the Federal Constitution on the proposition that this limitation here was sought to be removed while under a Republican form of government. Why, brethren of the Convention, if it violates a Republican form of the government, it violates the very Constitution itself under which the Republican form of government has existed for a hundred years and a quarter.

Whatever else than one Senator to each county of the State this Convention will finally adopt, will become a concession by the country districts to the great city lying on the bay, a concession that they are willing and anxious to make in a spirit of harmony which will dominate the action of those delegates to the end. Does the distinguished delegate from New York, who is also a counselor, Mr. Baldwin, who argued this morning — does he fail to remember that it is right, even in the enactment of statutes — that it is always right to classify it? Why, we, Mr. President, insist that it is in a great measure of necessity to limit any one portion of the State from controlling, and I go

a step further than has I think been gone by any of the speakers who have preceded me. It is a necessity imposed upon us by the congested conditions that exist in the making up of any large population, such as the greater cities. It is a concession which bigness always must make to the smaller. The ability to crowd human beings into tenements cannot be the final test as to whether representation shall be greater in the city or greater in the country. The right to classify, even by legislative enactment, exists and always has existed. Why, I recall the case—I cannot give the reference to it now, because I have not been near the book so I can get it. It is a case which Judge Bradley wrote in the Supreme Court, where I remember he used this illustration. It was a case involving that provision of the amendment of the Federal Constitution, the equal protection of the law. I recall he said that if the State of New York should decide it should elect its judges in the country by one method, and the judges in the city should be selected by another method, that that would be an entirely proper classification. I am not sure but that would be a proper solution for my honored leader, the chairman of the Judiciary Committee to bring in, in the selection of the judges. If they are anxious, or if they feel in the city of New York that the highest results are not reached by the elective system, I am not sure but it would be well for them to provide there for appointments for judges and leave us up in the country to select by popular vote the judges who are now doing their work satisfactorily, and all of whom were selected by the same methods that have given us distinguished names all over the country part of the State, almost without exception.

Why is the income tax limited to incomes that only have grown to a certain amount? It is because the right to classify exists. Why are there many laws affecting only the city of New York or cities having a certain population? It is because the Legislature has the right to classify. And why do they have a right to classify? It is because conditions are different down in the great city. You have to have different health laws for your conditions; you have to have different fire laws and a variety of laws different from those we require or that we have in the country, and yet all of this is sustained. And do you say, if that is so with respect to legislative enactments, that it is improper that it shall be inserted in the Constitution of the State that where conditions which require different treatment from conditions in the country—that that shall not be adequately treated when you yourselves come up repeatedly and require the passage of these laws which shall give you different legislation from what we require?

Frankly and truly, this provision must be in the Constitution itself. It must form a part of the basic law and be a limitation on the city. Never yet has the city had power that it has not used it personally. Why, Mr. President, there is only one precedent that I think of to fairly and properly illustrate what the city is always ready to do to the country when it gets a chance. I have declared my fraternal wish and I have declared it on the part of the delegates in this Convention who live in the country to do everything that is fraternal and kind and generous to the delegates who live in the city and to the people who live in the city. Yet I cannot help but recall, not in anger, but in sorrow, that the policy of the great city whenever it has had control has been that policy which was adopted by the donkey when he danced among the chickens. It was "Let every fellow take care of his own toes."

But it is urged and it is bringing the discussion to a much lower level than it ought to take at all — it is urged that the city pays 73 per cent. of the taxes and therefore it must have control of the Legislature in order to protect itself on the question of taxation. Well, brethren, did you ever know why you pay 73 per cent. of the taxes? It is because we have paid tribute to you commercially so long and so great that you are getting to be the richest city in world. We cannot wear a coat or a pair of trousers nor a shirt — we can get nothing except the few vegetables that we raise in our little back gardens, and I wish I could get home to hoe my own, because it sadly needs it — we can get nothing that we use without paying tribute to your great city, and we make you wealthy although we have not grown wealthy ourselves. There are few things that we can do without giving our willing tribute to the city of New York, and time and time again I have done it in the hiring of counsel down there. You are rich; you are paying 73 per cent. of the taxes of the State of New York to-day — and I accept the figure — you are paying 73 per cent. of the taxes of the State — because we have so prospered you in being loyal to you commercially and fraternally that you have it, you have the accumulation until you must and should pay that proportion.

And when it comes to the ease with which you pay it, recognizing all the groaning that has been stirred up and fostered for political purposes in the greater city in the last six months, recognizing it all, when you come to paying the taxes that you do pay, it is not a third part of the burden to pay them that it is for the man that is cultivating the poor, skinny hillsides upon the edge of the Adirondacks.

And then there is that other thought which was developed by the gentleman from Erie, Mr. Clinton, that you are paying 73

per cent. of the taxes because in your haste to have every convenience to make it the greatest and most glorious city of the world, you are going into expenditures which have reached the limit and are bursting the rope that bound you as to the debt limit that you could have, and therefore you have raised your valuations until to-day, if I am correctly told, they are 115 per cent. of the actual value of the property, and you thought you had to do it in order to raise these vast sums for these improvements. Is that any reason why we should not continue this proper limitation in the present Constitution or substitute a more just, a better and a stronger one when we come to fraternally confer and decide what is fair?

The State of New York has paid already, if Mr. Clinton's figures are correct, and I accept them as such, \$128,000,000 for its canals. Before that gigantic enterprise will have been finished it will have paid out \$175,000,000 and there will be the millions that will be required to sustain it and for the interest on this enormous sum. Do you think that the city of New York has not had more than 73 per cent. and will not continue to have more than 73 per cent. of the benefit of this great improvement during all the long coming years? While you have paid but 73 per cent. of that, you have had and accumulated 99 per cent. of the benefit of it, and really and truly, so far as many of the country counties of the State are concerned, which are paying their share, you have had 100 per cent.

The city of New York, with its tremendous army of automobiles, goes through the State from one end to the other and wears out the highways and then wonders why it is that it should pay any part of it. Why, Mr. President, if they were not called on to pay their just and proper proportion of the highway maintenance there could not be any highways for them to go over in their luxurious cars.

The housing of your paupers that has been assumed by the State — do you send less than 73 per cent. of those? I have not the figures at hand, but it stands to reason that if you pay only 73 per cent. of the taxes of the State to-day, you are not paying your just and fair proportion for the criminals and for the insane that are cared for by the State.

The prosperity of the city is made up by the country, and when the city of New York is paying as it is now paying, it is paying less than its just share. While I have no wish to add to its burden, I do not wish the horrid din rung into my ears that they are continually being discriminated against in the matter of taxes.

Coming now for a very brief moment to the other propositions of the amendment by Judge O'Brien, the proposition to abolish

county lines, let us see what has been the action of the other States with respect to that. There must be some unit. It has been for a long series of years regarded that that unit should be the county; that that was a homogeneous body, that its customs and habits were homogeneous and alike, and that rule has been universally adopted and continued in this State. What is the history of the other States? Kentucky, Tennessee, Alabama, Arkansas, California, Connecticut, Indiana, Maryland, Michigan, Montana, New Jersey, North Carolina, Oklahoma, South Carolina, Vermont, Idaho, Illinois, Louisiana, and North Dakota, each and every one has in its Constitution a provision that a county shall not be violated in making a Senatorial apportionment. It is recognized universally as the proper unit and yet it is proposed here, with an airy persiflage that is amazing to me, to part with the custom of the years and the custom of the whole country in wiping out county lines in making an apportionment. Mr. Marshall advises me that the Constitution of 1821 as well as the Constitution of 1846 each had that provision in. It should remain.

Now, Mr. President, we are told that if we fail to stand and deliver, that fraternal expression, that anxiety for us in the spirit of brotherly love, that if we fail to stand and deliver on the demand of this Proposed Amendment, one of two things will happen: One is that the work of this Convention will be rejected. Well, Mr. President, I do not believe that the work of this Constitutional Convention is going to be rejected. I believe that whatever is the deliberate judgment of the delegates to this Convention, meeting together with an anxiety, each, to yield to the other as far as his convictions will allow him to go, with an anxiety to be brotherly in their relations and to work out a result that shall be wholly and entirely right, I do not believe that the work of this Convention is going to be rejected. But if that grilling and horrible result is to be, where would our friends be, or how much would they better their condition by having a new amendment in the Constitutional Convention whatever may be its terminology? Will you thereby have got rid of the present limitations? They will have to stand until some future action is taken; and I think that when it is, practical politicians, who know more about political action and political result down in the great city than all of us put together in the country, and then some — that when they come to consider the effect of any amendment here, maybe the result will be simply to stand with the present limitation. I do not believe they will ever attempt any such thing, and I know they will not.

Then comes that other horrid suggestion of my brother from New York, Governor Sheehan, that there is a possible secession

of the city. Of course, I recognize that years and years ago that was the chief argument of our friends from the South, but I want to say with respect to that, much as I would dread any such result, as far as I would go to avoid any such result as that, all I can say is that that dread and horrid result would be no worse than to put the great body of the State absolutely within its control. But there is no such result that is either likely or is possible, and the gentleman who made the suggestion, holding it up over us, would himself be the last ever to suggest it, and he would fight it like a wildcat if any one ever attempted such a proposition as that. This State is a State. The mystic courts of memory never will permit a division of the city from the State. When the youngest among us shall turn our eyes to behold the sun in Heaven, it will be a State then, one and inseparable, and it will be the greatest of all the sisterhood of States, just as it is now. Therefore, do not let us be disturbed in our hearts as to any such result as that. Let us simply stand to the proposition that we propose here to do right, to be just and then fear nothing. If the time should ever come when the greater city should control the State, I am sure that the rest of the State and much of the city itself would be in the position of one carrying around the dead body of a paramour.

Mr. President, the struggle of the ages of men to make the punishment fit the crime—the struggle of the ages has been how to produce equality in State and in nation. The struggle in the game is to make the handicap proper, so that equality in reaching the goal shall result. What we want to produce here is a substantive law that will enable the weak—that will protect the weak; that will reasonably curb the strong; that will put such handicap that finally when the goal is neared, everybody will be on an equality. That result can never be reached by giving to any one locality dominion over the State. Never, by giving any one locality, no matter what, and I hope that our children's children and their grandchildren, and I hope that every succeeding Convention that shall follow this to the end of time, in the history of this State, will take warning that never, never, never must it be permitted that any portions—that the great body of the State is put under domination of any one locality. This proposition which we urge here, this doctrine which we urge in opposition to the Proposed Amendment, Mr. President, makes for equality. It makes for righteousness. It makes for equal opportunity for all, and in that equal opportunity, Mr. President, in that equal opportunity for all, we find the great renovating doctrine of the Republic.

Mr. A. E. Smith—At the beginning of the session of this Convention, one of the subjects that was uppermost in the minds

of the majority of the delegates was the question of what was going to be done about apportionment, and it was rumored around among the delegates that there were certain of the men in this Convention that believed no action should be taken on the question of apportionment, on the ground and on the theory that the details of apportionment have no place in a fundamental law, and the whole question should be left to the Legislature, and one of the reasons given was that it would invariably bring political strife into the Convention. Why? Why all of this? Because every man that sits around this circle knows that apportionment is politics, and you cannot take politics out of it, and when my friend from Saratoga talks about the power, what kind of power does he mean? The voting power in this body or the Senate to transact the business of the State? Not at all. The political power. That is what he means.

Going back as far as you can in political history, apportionments have always spelled politics. In 1894, the Constitutional Convention made a Senatorial district on Manhattan Island: Commencing at Fourteenth street, going north along Sixth avenue, to Fifteenth street, and then north on Seventh avenue to West Fortieth street, then over to Eighth avenue; then across Central Park at Ninety-seventh street and Fifth avenue, then east on Ninety-sixth street, down Lexington avenue, to Third, around Irving place to Fourteenth street, to the place of beginning. Of course, there can be no suggestion of politics in the making of that district; and on the basis of twenty city blocks to a mile, Fourteenth street to Ninetieth, three miles long and two blocks wide.

That was done, of course, so that the candidate for Senator from that political Senatorial district could on registration days and election day just walk up and down Fifth avenue, look up and down the streets, and look around and see if the election district captains and the poll clerks and workers were on the job. It was not possibly done in order that it could be made absolutely Republican and thereby assure to them at least one Senator on Manhattan Island.

We had a little sample of apportionment in the Legislature just adjourned. Without any precedent for it the last Legislature undertook to apportion the aldermanic districts in New York city. They did not say that it came from any great demand on the part of the people that there be any change in the lines of the districts. They were frank and open about it. They said that it was done for the purpose of trying to select a fusion or an anti-Tammany board of aldermen in the second two years of Mayor Mitchel's term and following the little lessons we have

learned from our Constitution, and having uttered our little political prayer, we made all the Republican districts this way (hands held out a short distance apart), and then we made the Democratic districts this way (hands stretched far apart). The mayor of the city said he would like to sign the bill; he wanted to show that fraternal spirit that the Senator from Saratoga speaks so eloquently of, but it was too raw, it was more than he could stand.

Now, I am always interested and amused when I hear anybody telling what they do out in some western State and showing what we ought to do in this State; and the other side is always careful to pick the State that helps their argument.

We went by airship over Illinois, the only State in the Union that is confronted with practically the same conditions that we have in this State, where the great city of Chicago threatens to outgrow all the rest of Illinois in population, and it probably has for all I know, but Illinois has no such provisions in its Constitution. The State of Illinois is not afraid of the great city of Chicago. Why? Because there has not grown up in the city of Chicago — there has not grown up in the State of Illinois, as it has grown up in this State, in twenty years, this division between the country and the city, due to politics.

When I come before a committee of this Convention suggesting some progressive method in the interest of labor, or in the interest of the women and children workers, and I state that California has adopted it; Oregon has adopted it; Nebraska has adopted it; Wisconsin has it; North Dakota has it; and Nevada has it — what is the answer? Something must be done to stem the tide of Socialism. Then, of course, what is done in other States doesn't make any difference. It is only when it fits our argument that we use it.

Now, I listened, as I always do, with a great deal of attention, to the Senator from Saratoga. If there ever was in the Senate of this State any Senator that ever created in my mind any doubt about the wisdom of my being a Democrat it is the Senator from Saratoga, but he went a little bit too far with me to-day. He kind of crowded it on me to-day, when he tried to make me believe that four wrongs make one right, and that forty-one rights make one wrong.

I am afraid I will have to leave him, and I hope it will not interfere with the fraternal spirit that exists between us. Now, I take it that we are met here for the purpose of submitting to the people of this State a document to be known as their Constitution and their fundamental law, and to be in the interests of all the people of the State.

In his opening address before the Convention, the President said: "To secure the equal rights of every one of the 10,000,000 people of the State of New York is the end and object of all we are to do." How can the Senator from Saratoga make the theory that the man in the tenement-house is not as good as the man on the farm jibe with that? What kind of arguments are these that because they are crowded into a tenement they are not entitled to the same representation that the man on the farm is? If I was to give much study to that question I think that I can prove that they are probably entitled to more representation.

Mr. Brackett — Does the gentleman not know that New York city itself, as it was then constituted, cast a majority vote for this very limitation in the very Constitution?

Mr. A. E. Smith — I do, and I will answer that in a very few minutes. The majority was very small, and I will ask the Senator to give me a reasonable number of the void and uncounted ballots to my side of it and I will probably beat him — if he will only give me my percentage of it.

Mr. Brackett — I thought you very rarely failed to count them.

Mr. A. E. Smith — Well, those who counted them did not count them for the proposition. For the apportionment in New York county twenty years ago, 67,008; against it, 66,641; blank and void ballots, 11,699; and I want to say to the Senator that there was not then as keen an interest in New York city twenty years ago on this question of proper representation in Albany as there is to-day; and I want to say that the Senator's party is responsible for creating the interest that there is in the fact that there is no just representation to-day; and before I finish I propose to show it, and I propose to show that every time we danced together the New York chickens have been stepped on by the upstate donkey.

Now, with a terrible sigh, the Senator spoke of the poor, skinny, little, neglected country up around the Adirondacks. It will never leave my mind, and it brings me back to my old friend, Arietta.

I cannot get over how poor they are. Arietta is a little town up in Hamilton county. In the year 1913 there was raised for taxes in that town \$18,300, and the State of New York — the State of New York, if you please, paid \$14,600 of the \$18,300. That was a tax upon the State's wild forest lands in the town and New York city paid 73 per cent. of the \$14,600; and they also had \$2,000 out of the State's general fund contributed toward the maintenance of their town dirt roads. It has a population of 252 people; living in that poor, skinny, little, neglected town of Arietta, up on the side of the Adirondack mountains, there are

252 people, living in that poor, skinny, little, neglected town — every one of them on the payroll.

Mr. Brackett — Don't you know that those roads have to be maintained in order that the State's servants may go through the sections there over those roads?

Mr. A. E. Smith — Yes; but he will never admit that for 250 people it takes a town deputy and four or five assistants to do it. Those are town officers — eight out of fourteen. It is easy. They get it easy.

Now, I think I said that there was politics in every apportionment. Now let us see if it is good business. Why, go back over history and find out if the business of the State of New York requires that any such undemocratic discrimination should be made against any locality or division of the State. In 1913 — if the Senator will look back over the twenty years of the political history of the State — in 1913 for the first time there was a Democratic Speaker in this body from the city of New York; there was a Democratic Governor in this body from the city of New York; a Democratic President Pro Tem. in the Senate; a Democratic chairman of the Senate Finance Committee; a Democratic floor leader of the Assembly, the majority leader. The chairmen of all the important committees of the Assembly were all from New York and Brooklyn. As the Senator himself would probably say, as it is said so often, all "tiger-striped." (Laughter.) Let us see how they treated upstate by comparison with what upstate received from their own people in 1910 when every one of the officials that I have just spoken of were countrymen.

In 1910 there was appropriated for the State Health Department — I put it first because I think it is an important department of the State — \$181,802. In 1911, when I had the pleasure and honor of being chairman of the Committee on Ways and Means and Senator Frawley was chairman of the Finance Committee we gave the Health Department \$278,055. In 1913, when, as has been said by nearly every Republican orator from Lake Erie to Montauk Point, the Legislature was completely dominated by Tammany Hall, what did the Health Department receive? Three hundred and sixteen thousand dollars, or three times as much.

Mr. Brackett — Who was the head of the Department?

Mr. A. E. Smith — It doesn't make any difference who is the head of the Department. The Republican Health Commissioner from New York remained in office for two years during the Democratic administration of Governor Dix. Contrast that with this year's performance, when Chapter I of the Laws of 1915 is

what is known as a "ripper." The Health Department exercises no jurisdiction in the city of New York; not one dollar of over a quarter of a million dollars is spent inside of the city of New York.

The city of New York appropriates annually upwards of a million and a half dollars for the maintenance of its own health department. Did the health of the people suffer because the city dominated in 1913? Not so. Upstate normal schools: We built them all ourselves; every brick; everything that goes into them; not only built them for ourselves, we helped build them for the rest of the State. In 1910, \$771,000. In 1913, \$904,000. So far as the business of education is concerned we did a little better for the upstate people than they did for themselves.

Cornell University, the School of Agriculture. In 1910, \$497,094, total appropriation; 1911, \$552,928; 1913, \$1,013,428. How many boys from Senator Wagner's district are in Cornell? The Agricultural Department itself in 1910, \$906,000; 1913, \$1,029,000. Delhi School of Domestic Science, not heard of in 1910 or 1911. A fifty-thousand-dollar appropriation to start it in 1913. Long Island School of Agriculture, \$190,000. Cobleskill, \$40,000 in 1911; \$20,313 in 1913. The State Fair, \$153,000 in 1910; \$221,000 in 1913. Does it look as though the great city was lacking in a proper appreciation of the agricultural interests of the State?

Now, the Senator from Saratoga has got to give us credit for knowing that the city cannot get along without the country and the country would not get very far without the city, and when you take politics out of it and bring it right down to business, the State's business, the record shows that we have the fullest and keenest possible appreciation of that.

A step further. The Senator knows how long the agricultural interests of this State knocked at the doors of the Legislature for some regulation of commission merchants in New York. Could they get it? No. When did they get it? They got it in 1913. They got it when New York city men had to turn their backs on the city and say: "You have the right side of this argument. We propose to do it for the agricultural section and the farmers of the State." That was no dance with the donkey and the chicken that night. Saratoga Reservation 1910, \$10,000; 1911, \$40,000; 1913, \$192,500. See how that tenement population, that foreign population, through its regularly elected representatives, neglected the soft, sweet spring water.

Now let us see how the general proposition was handled. We tear up over the roads in the automobiles. Let us see how well the

city-ridden Legislature took care of the highways. In 1910, \$3,538,756 was appropriated for the repair and maintenance of the highways; in 1913, \$5,724,681.

Creeks and bridges — this needs a little explanation to any of the city men that are not familiar with our appropriation system. One of the indoor winter sports of the rural legislator is to see what he can leave to the credit of his county in the Comptroller's office when he goes home, for the construction of a bridge or the cleaning up of a creek. Nine times out of ten, the sole and only object will be the improvement of local property, but by some peculiar court construction of what is general state benefit, as long as the creek is there for you to fish in; so long as you do not go there, the State must pay it. Well, we were not stingy about that; we were not mean. We were fraternal even to the bridges and the creeks — \$38,780 worth of them in 1910; 1913, \$265,925. Not a cent for New York. As for a bridge or a creek in or around New York, the creek can dry up or the bridge crumble and fall in, we in the city cannot get a cent for their upkeep.

Canals: For the repair and maintenance of canals during 1910, \$800,000; 1913, \$1,000,000. Now, is there any reason for limiting New York city because when she gets in control, the business of the rest of the State will be neglected? No, no reason for it. History does not show it. On the other hand, if there is anything to be taken out of the legislative record of later years, it is that New York city needs some protection from upstate. There cannot be any doubt about that. Let us see how nicely the city fared in the last session. The city sent a bill in asking that the board of aldermen have the right to fix the salaries of all its officers and employees. A kind of entering wedge for home rule. Just the beginning of that great doctrine that we all talk so much about, but trample on when we get through talking. It never saw the light of day; all three companion bills along that same line. The city asked that it be allowed to change the office of commissioner of accounts. The mayor and board of estimate certified that the two-commissioner system was not a success; that they would sooner have one commissioner with two deputies in order that they might centralize the responsibility. That bill passed the Assembly and was sent to the Senate, the Senate just said to the city of New York, "Keep it the way it is. Keep the two." An act to amend the Greater New York charter in relation to the board of trustees of Bellevue and allied hospitals — something that the city of New York desired very greatly, passed both Houses and went to the mayor, when suddenly something happened, and without explanation, it was immediately recalled from him by resolution and did not go back to him. Why read further? There are five pages of

it. Such is the treatment the city of New York receives when it knocks at the door of the Senate and Assembly for the little power to perform the local functions that are in the interest of the people of the great city. Such is the treatment it receives when it asks for so small a right as to change two commissioners to one; when it asks that it have greater freedom in making up the trustees of Bellevue and allied hospitals.

Now, don't let any gentleman sitting around this circle think for a minute that you are going to go to the people of the city of New York, in view of our recent political history, and justify this limitation by the fact that Oklahoma, Colorado and Alabama are governed similarly. Look out that the men from New York are not respectfully invited to reside in those States, where discrimination is not made against the great center of population. Mr. Schurman himself said that with the restriction now in the Constitution, working it out on a percentage base, the city and the country is properly, equitably represented in both Houses. The only possible answer is that, if that is so, why do you put it into the Constitution? Where is the rule for it? What is the possible reason for it? Politics. Political control. I have not heard a single man on the other side of this question, either here to-day or at any other time, advance any good, substantial reason to me why every county should have one Assemblyman. There is not any reason for it as a practical proposition. There is nothing that happens here in the Legislature that can give any one county any greater advantage over another. Take the common school fund, the \$5,000,000 or more appropriated every year for the common schools of the State. It is not apportioned by counties. If Schuyler was without a representative in the Assembly, that county would get its proportion of the school moneys, because it is figured out mathematically, so much for every school teacher. The Legislature simply passes the lump sum of money based entirely upon the figures that come from the Department of Education for the teachers. The money is appropriated to the Department of Education, and that department disburses it. It would be just as reasonable to say that, so far as the apportionment of the common school moneys is concerned, every county should be represented in the Department of Education, as that every county should be represented in this body. Take the highway fund for the maintenance of highways. That is distributed by the Department of Highways.

The highway fund for maintenance and repair is distributed by the Department of Highways upon the certification of the division engineer. The Legislature has nothing at all to do with that. The Legislature could not, for instance, say that Saratoga

was to have any more money expended upon its roads than Washington. We might as well say that every county should be represented in the office of the division engineer, so that they receive their fair share of the maintenance money, or for the original construction of the stone State roads. That is taken care of in the referendum. I ask the Senator from Saratoga or any man that has any legislative experience to show me what function this Convention performed here that affects a county as a county, and what possible harm could come to any county not represented — not wholly represented. Why, it must be plain. Every bill that passes this House must pass the Senate. There is not a Senator from every county, and any man that sits in this room to-day that has ever been a State Senator will tell you that he was able to take care of the interests of three counties just as well and just as ably as the three Assemblymen could do it in this House. Everybody knows why that was put in there. That was put in there for politics. That was put in there to insure the control of the Assembly, and let us see if history don't bear that out. In 1902, in the gubernatorial election between Odell and Coler, Odell only defeated Coler by 5,000 votes.

There was a majority of three Republican Senators, and when you come over here just the same little fifty Democrats, we can't get another one, the cards are stacked. You can't win. A political cyclone must hit the State in order to win the Assembly, and it is fixed that way. All the little counties in the State are Republican. In 1912 we had the great political upheaval. Look over the Assembly in that upheaval and see just how many Democrats were elected from small counties upstate.

Now I want to correct what I am sure is a false impression in the minds of the delegates, from the remarks of the Congressman, Mr. Parsons of New York, and Senator Brackett. We are not dealing with voters. If we are, take out that word "citizen population" from the Constitution and put in there "voters," and after you have written it in, then you have an argument; but before that is in there, you haven't any argument. Does the Senator seriously say that under the Constitution I represent only one in this State? I don't think so. Whoever comes to this Assembly after a reapportionment is going to represent a little more than himself. I urge that my wife and my children be represented here; the Senator would make me one; I am seven under this Constitution.

When he said that the Senator from the East Side was sent here by only sixteen or eighteen thousand votes he very carefully avoided the real fact that the Senator represents over 200,000 citizens of the State, and Saratoga has only 109,000. The Senator

from Saratoga would not seriously advance the argument to this Convention that a Senator's district be penalized because the people obey the biblical mandate "Marry and multiply," and the people of Saratoga did not, and that, despite the fact that they should have received the inspiration from the saintly appearance of the Senator.

You cannot consider voters alone. That is the basis upon which the Republican organization attempted to lay out the aldermanic districts in New York. Sit here and try to consider voters alone and find where you get off at. The Senator might have taken my district, which is a more striking example for his side of the argument, than is the Senator's. There are only 6,000 voters in my Assembly district, but there are 56,000 citizens; men, women and children. According to the Federal census of 1910 there were 102,000 people in my district, aliens and citizens. The Senator tried to draw us away from the real facts when he spoke about the Congressional apportionment. He did not tell the Convention that the Congressional apportionment is based upon population, both citizens and aliens, and he did not say that it was necessary that the 102,000 or 103,000 people that live in my Assembly district be represented in that Congressional apportionment. Had he done so, you would very readily understand why the representation from the city grew so large — the Congressman that represents my district represents a district which is only a slight departure from the Senate district. Why? Because the Senator represents the citizen population and the Congressman represents the whole population.

Now I do not know what the present census is going to show. I do not think that any man knows. The only question that I see that is before us for discussion to-day is whether or not it is in the interest of all the people of the State, all of the people, not the farmer, or the countryman, but all of the people — whether it is to their interest that any particular locality not called by name, but so referred to that it can have reference to no other part of the State, shall be for twenty years to come restricted in the representation that it can have in this body and in the Senate. That is the subject we are dealing with. It may be that this enumeration may now show that New York city is entitled to a majority in both Houses. On the other hand, it may not. If it does, it cannot be very much different. From a political standpoint, would that make any difference? Does anybody seriously urge that the whole territory now embraced inside Greater New York is to be entirely represented here by Democrats? Nobody dreams or thinks of such a thing.

I would be content to stop just right where I am and let the thing go; be satisfied to be recorded in the negative and never

speaking about it again, and that is making some promise, because the temptation to talk about this is very great. It is a live subject, and that is a great concession I am making to the members of the majority. I will stop talking about it to-day and forever, if you will join the society that I have the honor of being the founder of, the Amalgamated Association for the Suppression of Political Fraud. Just plead guilty is the quickest way out of it. Why, there is no business reason, but we just want to keep control. The Senator from Saratoga could have ended the discussion in five minutes, if he would just simply say, "It is to the interests of up-State that it keep control so that we can pass this kind of a charter for the city of Saratoga Springs." That is the politics of it. Talking about dodging politics, trying to get away from what we own. Not at all. The suggestion has never been made by anybody from New York that we were ready to stand in the way of any great public improvement in the State, on the ground that it was going to cost us money. But what we are trying to do in this new political dangle is to keep the donkey off our toes, and the night that the city of Saratoga Springs received this charter there was some dancing. No use going over it. It is drawn in the political interest of Saratoga county in a cunning little way. Just went around the outside of the old village, brought in enough votes to insure the fact that it would be Republican. The fellows on the outside said, "We don't want to go in; we don't want to go in; it means higher excise taxes." "Oh, well," they said, "don't let that worry you, don't worry about that. We will just fix that." So, right in the charter itself they fixed the inside tax district and the outside tax district. So when you are out you can come in and stay out at the same time. In when it is to your benefit to have longer hours to transact your business and out when it comes to pay.

Maybe that may be stopped, if a majority of the legislators come from the city of New York; it should be stopped.

See how different it is in the spring from the fall. When we are down in New York looking for votes what do we say? We say, This Imperial City of the Western World; This Market Place of the New Hemisphere; this Empire.

What do we say in the spring, when it is politically expedient? "New York State is an Empire State, as big as the Empire of Germany" — this is from an interview with a Republican leader — "Something besides population should control the State. No one 'corner' — in the spring, a 'corner' — "No one corner with a congested population should be permitted ever to gain control of the Legislature or any other branch of the government. New York is merely a commercial point." We have

dwindled in the spring to the proportions of a point — “It is just a huge seaport settlement, and it would not seem wise in the interest of good government to place in the control of such a portion of the State the destinies of the other great” — the “other great parts of the State.” “Then, there is the more delicate reason.” Now, we are coming down to the delicate part of it, and here it is not the cause of the fact that some part of the population play golf or tennis. “Then there is the more delicate reason why New York city should not control the government. New York city is the place to which the new citizens come. Many thousands of the new voters in New York have no knowledge of the government, its institutions or the needs of the State or its traditions.”

What do you think of that? The man who comes from a farm, after battling with the handles of the plow, I suppose knows all about it.

Now, the Senator said that this House probably — the Assembly probably should be based on population, and that some restriction be put on the Senate. That is not what the resolution that is in general orders contemplates. The resolution in general orders that will be the next thing before the House, when you beat the O'Brien amendment, puts the identical restriction on the Assembly that it puts on the Senate.

The great point that I make is that there is no necessity for it, and I want to say to the Convention, that I firmly and honestly believe that there is a great deal of truth in the assertions that have been made here to-day and yesterday that you are endangering the whole work of the Constitution.

There is a strong feeling in New York on this subject. The press and the people generally are unable to understand why the city of New York should be picked out and on in this way. There may be some reason for saying that no county in the State should ever have more than one-half, but this is so worded that it refers right to the city of New York; and don't forget that you will have to explain to the people of that city that it is a backward step. It is even worse than the present Constitution.

The present Constitution can only be made to apply, according to its wording, to the territory now known as Manhattan, Bronx, and Brooklyn. And this adds in the great and growing borough of Queens and puts in with it Richmond with its hundred thousand people and limits them to the half.

Now, I think, rather than have this Convention go on record for this proposition, as a matter of public policy, it would be a great deal better that nothing be done about apportionment whatever, and let this question for once be an issue, let it go as an issue so that we can get a proper test of the sentiment of the people on it.

The rule of the majority! I heard the Senator from Saratoga say that the rule of majority was the greatest possible argument we had in this country against Socialism. And what do we do? The minute we assemble in Convention to build a basic law for the people of our State, one of the first declarations of political principles is that the rule of the majority is all right, except when that majority is in Greater New York. Let us see how our action jibes with what the Chairman or the President of the Convention said at the celebration of the anniversary of Magna Charta: "There are but two underlying theories of man in the social relation to the State: One is the theory of the ancient republics under which the State is the starting point from which rights are deduced, and the individual holds right only as a member of the State. That was the theory of Greece and Rome and the Italian republics"—and of the State of New York. I put that in. It belongs there. The tenement-dweller in New York derives his rights from the State. From him, as a citizen, the sovereign gets nothing. Those words belong there, and I put them there.

Now I do not want to inject any more politics into the discussion than I can help so I am going to conclude by just saying that should this not be approved by the representatives from New York itself, but the men from upstate should think twice before they do this. They are flying the red flag in the face of the bull. This is particularly the wrong time to do it. It is better that you adhere to the intentions and the purposes of some of your men on the majority side to do nothing. Nothing at this time is better than this thing, because you are stirring up a feeling in New York and keeping alive a feeling that you will be sorry for. The country is just as dependent upon the city as the city is dependent upon the country, and the city is asking not more than she is entitled to, but just her fair, common, square chance,—the representation that she is entitled to because of her population, because of her citizen population, because of her numbers, whether they be the sons of foreigners—whether they be foreigners or natives, they are all citizens of the Commonwealth and the Commonwealth will look into the tenement-house for a defense of itself, just as it will look to the farm, and may receive it more readily from the city than from the country.

Mr. Bernstein — Mr. President: The discussion so far has developed into a line of argument that in my judgment entirely misses the point of Judge O'Brien's amendment. Senator Brackett practically summarized the entire discussion, from his standpoint, in three different directions. He said in the first place that the principle for which he contends has been incorporated into the Constitutions of several of the other States of the Union. He

said in the second place that under the provisions of the limitation now existing in our Constitution, certain of the Senate districts of the city of New York have a representation larger, as based on its population, than certain of the districts from up the State; and finally he concluded his argument by taking the position that the minority from up the State must and shall be protected from the majority in the city of New York.

Now, Mr. President, the first argument is no argument at all. The fact that a number of States in the Union have seen fit, for considerations that are peculiar to themselves, to limit the representation of any portion or portions of their State, does not serve as an argument of why we in this State should violate one of the cardinal principles of representative government by depriving one portion of the State from the representation that it should have in the councils of our Legislatures. One wrong, as Mr. A. E. Smith says, does not justify another wrong. His argument that certain of the districts of the city of New York, notably the districts represented in the upper chamber of this Legislature by Senator Wagner and Senator Foley, contained a smaller voting population than the Senate district which he represented in the Legislature of the State, is simply an argument, Mr. President, not that New York city should be deprived of any part of its representation, but only that the apportionment law which he and his friends in the Legislature have enacted, has been an unfair and an inequitable apportionment law. Let this Convention, if you will, give us an equitable apportionment law, and you will have cured the inequalities of apportionment that he cited for the report of the Committee on Legislative Organization. And, finally, Mr. President, the only argument that he advanced at all, in my judgment, the argument that the minority must and shall be protected from the inroads of the majority, is fraught with this dangerous doctrine, that it violates the sacred principle of equality, a principle that is as sacred to us as the principle of equal rights and equal opportunities for American men. Now, when you come to analyze the so-called danger of rule by the majority, as it has been expressed by Mr. Clinton, they must protect the minority from the inroads of the majority, what do you find? Is there any such division as has been argued for in this Convention to-day?

Is there a division between the people of the city and the people of the State on the broad general principles underlying our theories of government? Is there any division other than the divisions relating solely to local measures affecting the particular communities making up the city of New York, and making up the rest of the State? Mr. President, as I see it, there never can be, there never was, there never will be, any such division between the

city and the country. Every man, whether he lives in the country or whether he lives down in New York, who votes for any measure, either in this chamber of the Assembly, or in the other chamber, votes, as I see it, solely and singly as he considers the requirements of the entire State demand, so that this so-called danger that our friends are contending for is only a figment of their imagination. It is only a fiction and the fiction has been resorted to in this Convention in their contention that the city of New York shall be limited in its representation solely because they are not frank enough, they are not honest enough, to declare that their real purpose here is to perpetuate the rule of the Republican Party in the State of New York. That is the true, the real reason, for the limitation that was put into the Constitution in 1894, and that our friends are so earnestly contending should be continued in even a worse form in the Constitution to be adopted here. They are not frank enough to say so. It just so happens that the large city of New York contains a large Democratic majority and because it contains such a large Democratic majority it seems perfectly fair and reasonable to these gentlemen that they shall limit its representation in the Legislatures in the years to come.

Gentlemen, Mr. President, it is a violation of every principle of representative government that we have been taught to cherish in this country. I have watched the legislative proceedings in this State. Many of you men around this chamber have heard the various discussions that come up here year after year in relation to the different questions affecting our State government. Have you ever seen the people of the city of New York vote as a unit for one question, or against a question; have you ever seen the people outside of the city of New York vote as a unit for a particular measure or against a particular measure? Why, no. Have you ever seen the Senators in the Senate chamber from the city of New York vote as a unit against the Senators from up the State? Have you ever seen the members of the Assembly in this chamber from New York voting as a unit against the other members of Assembly from outside of the city of New York? No.

The tyranny of the minority by the majority that Mr. Clinton talked about is the tyranny of the predominant party in either House against the minority party in either House. Senator Brackett and Senator Wagner can tell you of the tyranny of the majority in the Senate. Mr. Smith and Mr. Hinman can tell you of the tyranny of the majority of the Assembly in this chamber, when the Legislature is in session. That is the only tyranny that there is; that is the only tyranny and that tyranny is not a sectional one. It is a political tyranny, and if Senator Brackett and these other gentlemen who are contending for this limitation in our State Constitution would all be frank with us and would

say "We contend for the protection of the Republican majority of this State or minority of this State against the Democratic majority or minority," I would say to him that that is a fair statement upon which to appeal to this Convention to include in the State Constitution a limitation.

But coming here and prating about the tyranny of majorities over minorities, the danger of having the city of New York override and overcome the rights and the interests of the people from outside the city of New York, is to say something that is insincere in view of the knowledge that we have that the people of the city of New York do not vote as a unit against the people outside of the city and that the people of the country do not vote as a unit against the city of New York; that both the people in New York and outside New York divide, as they divide, on questions of politics and on questions of policy, and on questions of State as they arise.

If these gentlemen will be sincere with us, we will end this discussion and we will say to them, "You, gentlemen, have the vote. You are going to carry this proposition through this Convention; so why need we waste any time in discussing with you the rights or the wrongs of this situation."

Now, Mr. President, when I say that the people in this State do not divide along sectional lines; when I say that the representatives in the Legislature, in this Chamber and in the other Chamber, do not divide along sectional lines, I simply say to you what you are going to see in this very Convention.

You are going to see the gentlemen here from New York, who are Republicans, voting with Senator Brackett and his friends from up the State, who are Republicans; and you are going to see the Democrats from up the State — the delegates from up the State who are Democrats voting with Senator Wagner and Mr. Smith and the rest of us Democrats.

Does not that prove that we do not divide on sectional lines? It is not a question of the city against the country. The hand of neither is raised against the other. It is simply and purely the same old question of partisanship which existed in the Convention of 1894, and which has raised its horrid head in this Convention.

And so I say, Mr. President, that it is up to us in this Convention to rise above the conditions that existed in the Convention of 1894; to forget for an instant that we are partisans, and that we are here to make a Constitution in a partisan spirit; if we forget this, we shall rise to the occasion which has been so well referred to by the President of this Convention, above partisanship and make a Constitution that will include in its provisions one of the cardinal principles of representative government in this or any other State — equal representation for city and for country.

Mr. Wagner — Mr. President, I am going to raise a point of order that no quorum is present, or else a call of the House. I move a call of the House, because I think it is eminently unfair to ask gentlemen who are taking the subject seriously to address empty seats, such as was experienced by the last speaker, who I think made a very convincing speech, but it was to empty chairs, and before any other speakers proceed, I move a call of the Convention.

Mr. Brackett — I hope that the delegate will not press that motion. They are coming in now. They are only temporarily out for a very hasty luncheon. I hope that the Senator will not press anything at this time.

Mr. Wagner — If I may interrupt the Senator, I suggest that we have a ten- or fifteen-minute recess, that we may all get a little bite of lunch, and then we may all return, because I protest that gentlemen discussing the question, especially on my side, shall not be asked to speak to empty seats. This subject is too serious.

Mr. Wickersham — Then, Mr. President, I move we recess until 3 o'clock.

The President — Those in favor of the motion will say Aye, contrary No. The Ayes have it.

Whereupon, at 2:40 p. m., a recess was taken until 3 p. m.

AFTER RECESS

3:00 P. M.

The President — The delegates will come to order. The persons in the rear of the Convention hall will either take their seats or retire. The gentleman from Saratoga, Mr. Ostrander.

Mr. Ostrander — I am very glad to have it fall to my lot to make this moving address which is to so clear up the atmosphere here this afternoon. I do not desire to occupy the attention of the Committee but for a very short time. I have been listening with pleasure and some astonishment to the explosion of some of the howitzers here and to some of what I might call the rattle of the machine guns. I was rather astonished that I should hear from some of the gentlemen who have spoken with that great emphasis and immense intensity of gesture suggestions of secession here; also suggestions that "if it don't go our way, we won't play." I have heard those things for a great many years. They are harmless, usually. When we run back and think over some of the great events of history and the dire results that have been prophesied in our country on account of the "crime of '73" and other things of that kind that have finally resolved themselves down into the babble of grape juice, we cannot help but think that these things are not serious in their nature.

I do not believe the gentleman representing our great imperial city, as some one has called it here, has it in his mind to pick up his dolls and go home if this Convention does not agree with him about things. Neither do I think that the great city of New York should secede from our State. Why is it that our great men and our small men and our intermediate men get heated up so over some of these discussions. Heating up quickly is always a sign of a small chimney, and I do not believe that these men when they take their sober second sense thought and stand back and look at themselves "as others see them"—that they can mean seriously what they are talking about in this Convention.

I hear wails from some of the great dignitaries of the State here about being corpses, about being steam-rollered in this Convention and torn limb from limb, etc. Now if the gentleman will behave like a corpse he will not have to be made one. There is no use of getting serious or too serious over this thing. The man who takes himself too seriously is always looking at the thing from the wrong angle.

This great crime that has been perpetrated upon the city of New York since 1894—think of it! They can't have the majority in this Senate! See how the poor old city has shriveled up and shrunken and grown powerless and atrophied under this condition! You would almost imagine that the harbors were closed and that the Stock Exchange had gone out of business. You would almost think the poor old city was never again to breathe the free air of Heaven. But the real fact is that the old town has been going on for twenty years and never knew it. It has been getting bigger, wealthier, stronger, and we all like it better when we go down, and it is a much better city than it ever would have been if it had been free for twenty years.

You will know, when these discussions come up in the family, how the majority is always against father, but when we come back into the house from the woodshed we get along a lot better than we did before.

Now, take this question of taxation: The wails that go up here remind me what true descendants our latter-day brethren are of the good old stock, who bought the Island of Manhattan from the Indians for a barrel of rum and then very socially sat down and drank up the rum with the Indians. They are certainly thrifty. But we don't find fault with them. There was an old country merchant, a shrewd old fellow, who observed very sagely that what he lost on fish he made again on mackerel. (Laughter.) Now, I rather suspect that New York has been having a little bit of a debauch. You know the man who comes home and cannot answer the question why he did not stay all night, and several

other questions that come up, always begins in the morning to find fault with the household expenses. The milliner's bill appeals to him a great deal more strongly than the two bottles that he had the night before. Now, New York city has had for many years a champagne appetite in civic affairs. It has gotten along until it begins to search the end of its pockets to see if there is any change left, and immediately these little fractions of things that come into the State budget begin to assume enormous proportions. Now, suppose if New York pays 73 per cent.? I won't stop to question the immediate percentage of it. But don't you realize that New York, after the fashion of the old man with his mackerel and his fish, gets about 80 per cent. of it back again, in one way or another? There is not any very great suffering on the part of the city from the taxation standpoint.

And when we take account of the way in which the tax laws are administered, when we realize the fact that the law calls for the taxation of all sorts of property, except the few millions that happen to be exempt to certain people, and we come along and find that the assessor has not always fulfilled his duty, why, we find the boys crying out upstate, "Here is a farm probably worth \$4,000 and only assessed for \$3,000, while down in the city we are assessed 94 per cent.—104 per cent." I am reminded by my friend here. Well, the figures don't amount to very much in that respect, because, in the first place, the poor old city gets out all right in the equalization. She gets her credit again and she doesn't pay any greater proportion of the tax than anybody else, and, in the next place, by making a great holler about things, she gets away with all personal property, practically. Billions of dollars of personal property never get on the roll at all. If it did we would not have any tax that anybody would object to paying. New York is not the worst sufferer in the world, and these up-country fellows are not the only sinners. New York has not always demonstrated its superior capacity in the way of government, I am sorry to say. New York has, if we are to believe the voices of its citizens who come up here, bankrupted itself pretty nearly. New York has had the honor to send up the only man who ever cast the mantle of shame on the escutcheon of the State so it was necessary to move his impeachment. New York has frequently had conditions that she could not get away from. She has cried out very wildly for relief from things that she could not relieve herself from.

Now, you see what New York needs is just what the fellow needed who went coon-hunting. His companion went up and shook the tree; he stayed down with the bull dog to get the coon. And presently they shook him loose and he came down and there

was a wild mixture of dog, man, and coon, which proved to be a wildcat. And the friend up above said, "Mike, shall I come down and help you hold him?" "No," he says, "but for Jesus' sake come down and help me let go of him."

Now, what New York most particularly needs is to have somebody come down and help her get rid of some of the conditions she has. Everybody has heard about the suffering of our sister, the city of New York, caused by her great brother, upstate. There has been a great deal of talk about it, but he has not been so hard-hearted after all.

She has been demanding she be given a free hand, but when she cuts loose and gets down to running matters for herself, how soon she calls for help.

Now, mere bigness, mere numbers, does not count for wisdom, always. We might look out through the history of our country, and we would not find a Daniel Webster or Charles Sumner coming from some congested center of population. If we look for our great constitutional lawyer, perhaps we would have to go up among the rocks of Vermont and get Senator Edmunds, if we were there.

If we wanted to find the man who more nearly represented the heart of the whole country, you, perhaps, would go back to the little old log cabin in Illinois for the great man of our century. It is not always the majority that is worth while. There was an occasion when there was a great majority, and the Man of Galilee was brought forth for judgment. Pontius Pilate listened to the majority and the rest of us have listened to the judgment of Pontius Pilate ever since. This is not a matter of politics. It is a matter of patriotism. New York needs the patriotic protection of the up-country as much as we need it. We cannot separate ourselves in narrow ways and allow any little corner, or any corner of the State to go along without the rest of us.

Your city chief of police would be after the man who aimed to accumulate any great amount of explosives in the city, and you say that is not safe. We cannot live by it; it is liable to blow up at any time. Let me ask you if there is anything more explosive in the world than some of the population which New York has got within its confines to-day. You don't want to be governed in the last instance by men whose only knowledge of affairs is the half-page red-headed line of the yellow sheet.

It is a dangerous thing, and because it is a dangerous thing it is the reason that people, not only in this State, but in other States, have wisely put in the provision that they shall not have a majority because they act too quickly.

They don't wait for the sober second thought. They are the proper prey of the man on the barrel head. If there was some way for them to wait, a great majority of those citizens would think, but there is also a great number of citizens there, and I am sorry to say it is the same elsewhere, who don't stop to think, and who can't think; men whose mental processes have not gone so far. Now, the great State is trustee of those people, and to count from mere numbers would be to disregard entirely the safeguards which should be thrown around our government. That little safeguard, to put it in a homely way, is just like the pistol that the old Texan wore in his belt, and the tenderfoot said to him, "Mister, what do you tote that thing around for? You don't have to have them here, do you?" He said, "Well, stranger, we don't want it very often, but when we do want it we want it damn bad." Now, this little precaution is a safety appliance that stands for the good of the whole country. It stands for the sober second thought. It stands for the other point of view. Clear 'way back in old Solomon's time we get the wisdom which was then old, that in a multitude of counselors there is wisdom. It is not that people want to go wrong, but because we see things from a single angle and not from many. It is because we are too instantaneous, touch and go, and if there is a large population together, ready to act quickly on any proposition, it is just as dangerous as any explosive that can be thought of in this world. This principle of the balance of power has been wisely engrafted into the Constitution of the United States. It has never worked any injury. It has always been for safety, and the whole underlying principle of this constitution-making, the only reason why we are brought together here for the purpose of considering and formulating and laying down certain principles of government, is what? To protect the minority. It is safety first. That is why these provisions go into the Constitution.

New York is not abused. She can have her share, but she cannot have more than her share, except when it comes to the vote for the Governor, and then she may be able by her vote to elect the Governor if she has more people than are outside. She can protect herself by the use of the executive veto when it is necessary. These checks and balances have been wisely devised. They have been long in operation; they have injured nobody, and I do not believe that this Convention or the people of the State are going to abrogate those things. No matter how vigorously we swing our hands, no matter how hard we call, and no matter how much emphasis we lay on things, there are the real necessities of government, and those we must have. Gentlemen, I thank you.

Mr. F. Martin — I feel that before this debate is closed, it is

only proper that I should say a few words, coming from the new county of the Bronx. No county to-day is more seriously in need of reapportionment than the county of the Bronx, but before we get that reapportionment we want the clause stricken from the Constitution which would prevent a just and proper reapportionment.

I noticed that when Senator Brackett was reciting the figures from the respective districts throughout the State, he very wisely stepped over the Bronx and forgot to tell the members of this Convention that in the Twenty-second Senatorial District, the only Senatorial District wholly within Bronx county, the vote last year was 53,900 for the Senator, and the enrolled vote in that Senatorial District was 56,000. In other words, the vote of a man up the State is equal to three votes in the Bronx. I am not one of those who feel that the vote of anyone throughout this entire State is any better than the vote of a Bronxite.

If we take as the ground for our argument the number of voters, we are able to show that the rest of the State secures three Senators for the same number of voters for which we secure one, and if we take the question of population, we will be able to show that in that one Senatorial District, we would be entitled to four Senators. In the Thirty-fourth Assembly District of Bronx county, the estimated population is 200,000, and the vote for Assemblyman in that one district was greater than the vote in many of the up-state districts for Senator. They have, as I have said, but one Senator in the county, but we would rather there should be no reapportionment in this Convention, if we cannot receive a fair and proper reapportionment, so that the whole people of the county will be properly represented in the Senate of this State. Mr. Parsons, who evidently is not as familiar with the Bronx as some might seem to think, has stated that if the old clause is allowed in the Constitution, it will not include that part of the Bronx known as the "annexed district." The annexed district of the Bronx is a small portion of the Bronx, a very small portion, and the greater part of it is park property, there being something like 600 acres of park territory in that section. Now, you can see how great a need there is for reapportionment of the Bronx, and you see how the people want it, but they certainly are not in favor of a reapportionment such as the last one, which left them in the position they are in to-day.

It is the fastest-growing county in the whole State. The foreign population, or the population referred to here, is large, but that population should also be represented from our county.

I believe that the action of this Convention, if it should deem it advisable to take such action, as has been intimated it would

take, will foment a spirit of sectionalism in this State which will be regretted for many years to come. The people of the State to-day feel that the city of New York is being discriminated against, and how much more will that argument be proven by a reapportionment, or leaving a clause in the Constitution which will compel a reapportionment which will discriminate against the city of New York?

For these reasons, I felt it my duty, coming from a county which, as I have said, is so sorely in need of proper representation, to protest against this clause now existing in the Constitution, and to lend what little voice I have to show how hard it works on the people of my county.

I feel certain that the arguments which have been offered in this Convention will not blind the people of the Bronx. I feel certain that something more stable will have to be shown them to warrant them in voting for a Constitution which will retain a clause which has worked so much against that county. And, because of that fact, I wish to call the attention of the gentlemen of this Convention to the fact that I do not believe that the people of that county will favor any such clause or any Constitution which will contain such a clause.

Mr. Unger — Mr. President, I have sat very patiently but listened with a deep and smoldering sense of indignation to the shameless attempts of the Republican majority to justify the crime of 1894. A feeling of resentment gives way to a wave of pity. Because I do feel now that, instead of dealing with a gang of desperate political buccaneers I am dealing with political paranoiacs who are laboring under the delusion that oratory can correct injustice.

I might, Mr. President, divide the arguments in favor of reporting adversely to Morgan J. O'Brien's bill, into three classes. The first is the Franchot sophistry; the second may be contained within the patriotic platitudes of Mr. Clinton, and the third within the delightful ambiguity of President Schurman. Dealing with them seriatim we find that each of them means simply this: Mr. Franchot, an idealistic young man of the same generation that speaks through me, comes forward and seriously asserts that there is grave danger of the rural communities being dominated over by the city of New York. I tell him that for every rustic who can feel the heavy hand of city dominion, there are ten thousand toilers in the tenements of my great city, bending over the work bench, untutored, illiterate, ignorant, who need the protection that you would deny them. Again, Mr. Clinton announces with patriotic and proper patriotic pride that his ancestors fought and died that the principle of taxation without representa-

tion should not survive. When I come from New York city and demand that the unjust principle of taxation without fair representation shall not survive in this State, I am inspired by the same ideal that actuated his forebears. When President Schurman, in that sweet and delightful diction of his, agrees with the principle of what we New Yorkers advocate, but denounces it as impractical, I say that he reminds me of that famous gentleman whose diction always pleased us so that "no one in the world could doubt him. He argued high, he argued low, and he also argued round about him."

Mr. President, one other thing I desire to impress upon the Republican members of this Convention who come from the city of New York. I was elected as a protest against Republican domination in New York city. My district was the most powerful Republican district in the entire city. In it the chairman of the Republican county committee, the boss of the Republican party, chose to run, because he felt that he could in that way at least bring about some more Republican domination over the city of New York. But my people rebuked him and sent him to ignominious defeat; and elected, in his stead, a Democrat who would represent them in this Convention against all the arrogation of an upstate Republican party. So I tell each and every one of the Republicans who come from my city and who are gathered in this Convention, and who forget the trust imposed in them by their constituency, that their political dooms are sealed if they vote in opposition to the O'Brien proposal.

Mr. D. Nicoll — Mr. President, I shall detain the Convention for a very few minutes. I said some days ago that I was very reluctant to have any discussion in this Convention on the question of apportionment and I am of the same mind now. I don't know that I should speak at all were it not for the fact that there are one or two considerations which may be of some use to the Convention. I was a witness of the crime of 1894, one of the four members of this Convention who actually saw it committed, and I am the only member of that Convention present in this who did not aid and abet it.

I thought that it might be of some interest and service to the Convention to present a leaf or two from the discussions of the Convention of 1894. Many of my associates have intimated to me that further discussion is unnecessary and will be unavailable because the subject has been so long before the members of the Convention that men have had an abundant opportunity to make up their minds.

I must confess that I do not share that feeling. It seems to me that this is a very different Convention, in a very different

state of temper and mind from the Convention of 1894 and that there is a fair chance that notwithstanding preconceived notions or bias or prejudice this amendment may prevail in this Convention.

I take some encouragement from what has already gone on in the course of this discussion. As I listened to the logical and eloquent speeches of Senator Wagner and Mr. Sheehan, in which they pictured the lamentable and pathetic position of the city of New York I thought I saw a tear steal down Barnes' iron cheek. I thought I saw the bosom of the Sage of Columbia county convulsed with sobs as he recollected, no doubt, those happy days gone by when the citizens of New York proudly elected him to a seat in the House of Representatives.

I was still more encouraged when that brilliant young delegate from Niagara arose and confessed that his heart had been touched by the burning eloquence of Sheehan and Wagner and when I heard him declare that if perchance this amendment is voted down in this Convention he would stand shoulder to shoulder with us in some liberal plan of home rule, and I was entirely convinced that argument and debate were justifiable when I heard the distinguished delegate-at-large, the former mayor of the city of New York, declare that he believed that this was one of the greatest questions that had ever been presented to a body of this character, that New York had a just cause and that he would be glad to vote for the amendment if he was not constrained by party considerations.

There have been two attempts in the Constitutional Conventions of the State of New York to discriminate against the city of New York. One failed and the other succeeded. What we are asking you now to do is to excise from the Constitution the one that succeeded. The first attempt to discriminate against the city of New York occurred in the Convention of 1821 and it related curiously enough to this question of the constitution of the Senate. Prior to that date, as we all know, only freeholders could vote and only freeholders could be elected to the Senate. One of the first things done by the Convention of 1821 was to extend the suffrage, abolishing the freehold restriction so that every taxpayer could vote and in addition to taxpayers those who performed service in the militia or did work upon the highways. The chairman of the Committee on the Legislature in that Convention brought in a report recommending that thereafter an apportionment should be made on the basis of inhabitants instead of as theretofore on the basis of electors.

Mr. Young of Saratoga county moved as an amendment to substitute electors instead of inhabitants and the debate was upon his amendment. It is certainly interesting to note that the

present representative from Saratoga in this Convention should have based his entire argument to-day upon the theory that an apportionment is based not on inhabitants but on the electors of this State. That was the proposition which Delegate Young moved to insert into the Constitution of 1821 contrary to the report of the Committee. And that debate, although it occurred almost 100 years ago, proceeded upon the lines of the debate to-day.

The great purpose of the Young amendment was to limit in the city of New York because there was no labor done on highways in that city, whereas almost everyone in the country got a right to vote, if not a taxpayer, by working on the highways.

Chancellor Kent thought the question of returning to the term inhabitants was entitled to some consideration. It had not indeed been distinctly brought before the committee of which he had the honor to be a member. He was disposed to think it ought to be retained. The city of New York was the pride and glory of the State and although discussion was required it was entitled to and ought to enjoy its full proportionate weight and interest.

Mr. Edwards, from the city of New York, said:

"Consider, sir, for one moment the operation upon the city of New York that operation is to be apportioned according to the number of electors. In that city no person is bound by law to work on the highways and they have but very few highways to work. In the country every person above twenty-one years of age is required by law to work on the highways. You have consequently adopted a rule with respect to the right of suffrage which must necessarily be partial in its operation. The consequence of it is that multitudes are admitted to the enjoyment of the elective franchise in the country when corresponding classes of society are excluded from it in the city. To make this subject still more plain I will suppose that the elective franchise was confined to those alone who labor on the highways. The consequence of this would be that not a man in the city of New York would be permitted to vote. Then if the proposition is adopted that representation is to be apportioned according to the number of electors it would follow that that city would not have a representation in either branch of the Legislature."

He continued: "I hope, sir, that no gentleman is indulging in unreasonable prejudice against the city of New York. If any such prejudice exists a little reflection must remove it. Who is it composed of? Why, it is the great mart of the State. It is that place where you send the produce of your farms. They purchase your products and return to you the products of every clime to minister to your need and comfort. It is true that they accumulate great wealth, but this wealth is necessary to enable them to prosecute that business with you. The inhabitants of

that city enjoy no exclusive advantages. You and your son can participate at pleasure in all the benefits. The city and country are equally interested in each other and equally dependent upon each other, and as well might the head of the human anatomy jangle with the other members as the country with the city. Great wealth is there concentrated. The country needs the benefit of it for the city now pays one-fourth of all the taxes of the State. We ask no exclusive privilege; all we ask is justice—equal and exact justice. We want nothing more, and you can as consistently do justice, and provide in express terms that the country shall be represented in proportion to its population and the city shall only be represented in proportion to only two-thirds of its population, as to adopt the proposition now made for the effect will be the same.”

Now, gentlemen, that brilliant and forceful argument of Mr. Edwards prevailed. On the motion of Mr. Radcliffe of New York an amendment was adopted providing that the apportionment should be upon the basis of the inhabitants, excluding aliens, and that has been the basis of apportionment from 1821 down to the present day. The Convention of 1846 assembled and adjourned without making any discrimination against the city of New York. The same was true of the Convention of 1867. It remained for the Convention of 1894 to revive the discrimination against the city of New York which had been rejected by the Convention of 1821.

The situation in 1894 was a trying and peculiar one. The Convention met a year and a half after the great Democratic landslide of 1892, which almost wiped the Republican party out of existence.

The Democratic Legislature of 1892 had made an apportionment of the State which I have come to believe was an unfair apportionment. I believe it because so many honest, fair minded men, both Democrats and Republicans, appear to have come to an agreement on the subject. It was not the fault, however, of the Democratic majority because in certain counties of the State, notably in Albany and Monroe, the Democratic majority was held up and compelled to make an apportionment which it was disinclined to make in order to put any kind of an apportionment through the Legislature. At all events a feeling of resentment added to a feeling of disappointment created among the majority of the Convention of 1894 a profound conviction that something ought to be done to prevent similar apportionments in the future. And when we assembled in the summer of 1894 it was manifest to everybody, on account of the Wilson Bill and the espousal by the Democratic Party of the free coinage of silver, that the Republicans were going to carry everything with a tidal wave, and on

that account I dare say that some of the politicians in the Convention thought it was a great opportunity to put into the Constitution an apportionment not reviewable by any court which would keep the upstate Republican section of the State in power for at least twenty years to come.

When the committee in that Convention brought in their apportionment report this objectionable discrimination against the city of New York was not in it. That was an afterthought born, as I believe, from the fierce passions which the debate aroused. If you think that there is anything warm about this discussion you should have been present at one of those debates. Old friends parted company. Men said that they never wanted to see each other again. Men who had the greatest confidence and respect for one another proceeded to refer to their associates in language which was certainly not parliamentary. And out of all that heat and fever this discriminatory provision against the city of New York arose.

There was really not very much discussion about it. It came in as an afterthought. I do not recollect that many persons paid any attention to it. By the minority it was looked upon as a foregone conclusion and they resigned themselves to the inevitable.

Now, gentlemen, I think the time has come in the interest of fair dealing to take that objectionable provision out of the Constitution. I do not see that it serves any good or necessary purpose or does anything except to antagonize different sections of the State. It ought to go out because it went in as the result of passion and prejudice engendered by the situation as it existed at that time. It ought to go out because of the things which have happened since it went in. I mean the political things. It is no longer a political necessity. At the time when that provision went into the Constitution everybody supposed, Democrats as well as Republicans, that the city of New York was and was going to remain the Gibraltar of Democracy. But, gentlemen, how very different has been the result. Only two years after the Convention of 1894 adjourned the city of New York went Republican by a large majority. And the following Presidential election the city of New York went Democratic by only 25,000 majority. In the Presidential election of 1904 the city of New York went Democratic by less than 40,000 majority, and in the election of 1908 the city of New York went again Republican.

This whole Constitutional provision was inserted upon the theory that New York was to remain permanently Democratic, whereas the truth is that the electors of that city at the last four Presidential elections have been led away so far from the principles of true Democracy that they have twice carried the city for

the Republican ticket and have twice permitted it to go Democratic only by very small majorities. As it stands to-day New York is just as likely to go Republican as it is to go Democratic.

But, gentlemen, there is still a more serious reason for excising this objectionable provision from the Constitution, and that is because it incorporates into the organic law of the State the very antithesis of the fundamental principle of Anglo-Saxon liberty — that there should be no taxation without representation. When it was inserted in 1894 it was really an academic provision. It had no application to things then existing. No county and no two counties at that time had a majority of the inhabitants of the State. No county and no two counties at that time paid even a third of the taxes of the State. It was put in, therefore, as an academic provision and as a safeguard against the future.

But what is the situation now? I have been at some pains to collect some figures in order that I might be on the safe side, and I consulted the New York Tax Reform Association, among the directors of which I find one of the distinguished members of this Convention. From these figures it appears that in 1910 New York had 52 per cent., excluding aliens, of the inhabitants of the State and in the same year it paid 70 per cent. of the State taxes.

Since then the percentages have been increasing and New York now pays 73 per cent. of the taxes of the State. Now, gentlemen, the fact that one political division of this State, one territorial section, contains a great municipality with more than 50 per cent. of the inhabitants of the State excluding aliens, and pays over 70 per cent. of the taxes is something entirely new.

Mr. Parsons — Is that statement about population based upon the 1910 Federal census?

Mr. D. Nicoll — I don't know; he says it is the population of 1910.

Mr. Parsons — I asked that question because in the Federal census as taken, as pointed out by Dr. Schurman this morning, you don't get what is the citizen population.

Mr. D. Nicoll — Well, what I asked the gentleman from the Tax Reform Association was to give me the population for 1910, excluding aliens, and I assume that has been done. I asked him whether he had done it or not, and he says yes.

Mr. Parsons — Governor Sheehan has had some correspondence with Mr. Stuyvesant Fish, and in it were letters passing between Mr. Fish and the Director of the Census, and in which the Director of the Federal Census pointed out that they had no figures which show what was the citizen population.

Mr. D. Nicoll — I will take Mr. Schurman's figures. I put

them down as he offered them. Mr. Schurman was quoting from the census of 1905.

Mr. D. Nicoll — Is that right? The enumeration of 1905?

Mr. Parsons — Then I say about that, the enumeration of 1905, as published in the Legislative Manual, from which I believe he took his figures, is the total population and not the citizen population.

Mr. D. Nicoll — What he said in the course of his very interesting discussion of the subject was "New York has only 48 per cent. of the inhabitants, excluding aliens." My figures are very near it. I give you the figures of 1910, five years later, and all of the tax reform associations claimed — Mr. Low's organization — is that there are now 52 per cent. But it does not make any difference to my argument. I am arguing that you have got here a brand new thing that never happened before. It did not happen in 1894. It has never happened before.

Mr. Barnes — In order that I may clearly understand you — you hold that the basis should be upon assessed valuation, and is it your argument that the population is 52 per cent. and the valuation 72? How are they related?

Mr. D. Nicoll — The percentage of taxes is 72. I said nothing about valuations.

Mr. Barnes — The taxes are on the valuation?

Mr. D. Nicoll — Of course.

Mr. Barnes — The valuation of the city of New York, as I understand it, is 72 per cent.

Mr. D. Nicoll — I am speaking of the fact that you have in this municipality or in this territorial division of the State the extraordinary circumstance, never existing before, of over 52 per cent. of the population in 1910 paying over 70 per cent. of the taxes. If you will bear with me for a moment I will show you that this is entirely new in the history of our State government. Indeed the distinguished delegate at large from the city of New York, Mr. Low, said yesterday with great impressiveness that we were debating something new in the history of the world, and he was quite right. He said London was a great city in England, the greatest city in the world, but that London does not control England. Of course not. London has not 52 per cent. of the population of Great Britain, and it certainly does not pay 70 per cent. of the taxes. He said Paris was a great city but it did not control France. That is true. But Paris does not represent 50 per cent. of the population of France and pay over 70 per cent. of the taxes. The same thing is true of Berlin, of Petrograd and of Rome.

But what is the situation in this country? Take Chicago.

Chicago in 1910 had 39 per cent. of the population and paid 44 per cent. of the taxes.

Philadelphia in 1910 had 20 per cent. of the population and paid 30 per cent. of the taxes.

St. Louis in 1910 had 21 per cent. of the population and paid 36 per cent. of the taxes.

Boston in 1910 had 20 per cent. of the population and paid 36 per cent. of the taxes.

Cleveland and Cincinnati combined had 19 per cent. of the population and paid 22 per cent. of the taxes.

Minneapolis and St. Paul combined had 25 per cent. of the population and paid 20 per cent. of the taxes.

Detroit had 13 per cent. of the population and paid 22 per cent. of the taxes.

San Francisco and Los Angeles, 31 per cent. of the population and paid 43 per cent. of the taxes.

New Orleans, 20 per cent. of the population and paid 43 per cent. of the taxes.

Portland, Oregon, 21 per cent. of the population and paid 37 per cent. of the taxes.

Now, don't you see from these figures that, as Mr. Low said yesterday, we are dealing with a problem that has never existed before, because we have in this State a community which in 1910 had 52 per cent. of the population and paid 73 per cent. of the taxes. If these figures are correct, and they seem to be generally accepted everywhere, I arrive at a point where we must revise the basis of our apportionment.

There are only two kinds of apportionments. One is an apportionment based on population — on the inhabitants excluding aliens. The other is an apportionment based on population and on territorial and civil divisions. I am frank to say that the later kind of apportionment has been the apportionment of this State from the beginning. Mr. Clinton was quite right when he pointed out yesterday that we have never had in this State an apportionment based on inhabitants excluding aliens. And the honorable delegate from Saratoga and the distinguished Vice-President of this Convention were both correct when they pointed out to us that other states had apportionments based on population plus territory and civil divisions. I have no quarrel with any of the contentions made by Mr. Clinton or Mr. Schurman or Mr. Parsons or Senator Brackett. All that they have said on the subject of the apportionments of the different States and the restrictions put upon the Assembly or the Senate are entirely true. But it has nothing to do with the case. It is entirely immaterial to this discussion because we are here confronted with a situation

which never came before any Constitutional Convention before. We have something brand new and it is idle to justify it by reference to the Constitutions of other States.

Mr. Franchot — Do I rightly understand the gentleman's argument to be that because the provisions of the Constitutions of other States have not yet been called upon to become effective or to accomplish their purpose, therefore we should not be guided by the underlying principle and purpose which dictated their enactment in those Constitutions?

Mr. D. Nicoll — We certainly should not be guided by them when we have reached a situation that they never have in mind. We have here, as I have said, something new and the question is, are you going to still adhere, notwithstanding the facts and figures which I have given you, to your old apportionment of territory and civil divisions or are you going to do what justice requires you to do — make an apportionment upon the basis of inhabitants excluding aliens?

If you are not willing to do that, which I hold to be strict justice, if you still decide that you are going to hold on to the restrictions upon the apportionment based upon the provision that no county shall ever be divided, if you intend still to hold on to that in order to retain the power which the upstate sections have over the city of New York, at least cut out of the Constitution this provision which enshrines in the organic law the negation of that principle upon which Anglo-Saxon liberty is founded, namely that there should be no taxation without representation. At least cut that out. Do not let the Constitution suffer the reproach of containing a provision which is the very reverse of the principle for which our fathers fought.

"No county," says the Constitution, "shall have more than one-third of all the Senators and no two counties or the territory thereof as now organized which are adjoining counties or which are separated only by public waters shall have more than one-half of all the Senators." We must take judicial notice of the fact that at this moment that territory has over 52 per cent. of the population of the State and pays 73 per cent. of all the taxes. So that the provision should read as follows: No two counties or the territory thereof as now organized which are adjoining counties or which are separated only by public waters shall have more than one-half of all the Senators and that notwithstanding that the territory now contains more than 52 per cent. of the population of the State and pays more than 73 per cent. of the taxes.

Mr. Barnes — That is why I inquired before, what has this valuation of 73 per cent. got to do with this matter?

Mr. D. Nicoll — Why, because where you pay such an enormous percentage of the taxation you are entitled to adequate representation.

Mr. Barnes — Then you can go back to the proposition that you are going to make valuation the basis of your apportionment?

Mr. D. Nicoll — Both on the population and the valuation.

Mr. Barnes — Where are you going to draw the line? In view of the long argument you have just made, that the question of the valuation is important, you have got to go to the proposition that valuation should be the basis.

Mr. D. Nicoll — Let me illustrate to you, Mr. Barnes. Let us suppose you leave this provision as it is to-day. Let ten years go by. If you follow the present law of growth in ten years from now instead of 52 per cent. of the population of the State this territory will probably have 62 per cent. And instead of its paying 73 per cent. of the taxes of the State it will probably pay eighty odd per cent. Do you think that under such circumstances you should leave a provision in the Constitution which declares that that territory of the State which contains over 60 per cent. of the population and pays over 80 per cent. of the taxes should never under any circumstances have more than half of the Senate?

Would you allow such an offensive provision as that to remain? And suppose in ten years more the territory contains 75 per cent. of the population and pays 90 per cent. of the taxes, the rest of the State paying only 10 per cent. of the taxes and containing 25 per cent. of the population. Would you still allow it to remain?

Now, Mr. President, I do not concur with some of my associates who predict dire consequences if you refuse to adopt our amendment. I do not say that the city of New York will try to secede from the rest of the State. I think the city of New York is greatly attached to the rest of the State. We love its great works of nature, splendid farms, its forests, its fields, its lakes, its great rivers and its men. We are bound to it by many ties, and I am persuaded that the people of the city of New York will suffer long before they will attempt to disassociate themselves from any political connection with the rest of the State. It cannot be denied, gentlemen, that the city is smarting under this discriminating provision. But, notwithstanding that, I am unwilling to say that the work of the Convention, whatever it may be, will necessarily be imperiled if this provision remains in the Constitution. I have no confidence in myself as a prophet. I made that prediction in the Convention of 1894. If you will take the pains to read the eloquent peroration to my effort in that Convention, you will see that I then declared that we would organize to prevent the usurpation of our rights, that we would light our

campfires and organize our forces, and I must say that I was greatly surprised the morning after election to find that the Constitution had carried and this apportionment with it. That, however, was due to the peculiar conditions of that year, due to the great Republican tidal wave which swept along everything before it, the good and the bad. And while, therefore, I do not undertake to make any prediction I plant myself on this proposition, that those who do injustice always suffer in the end, that when you sow the wind you are bound to reap the whirlwind, and that in the fullness of time a punishment will be found which will fit the crime.

Mr. Marshall — Mr. President, as one of the perpetrators of the alleged crime of 1894, I wish to add but a very few words to the already lengthy discussion on this proposition. I think a few moments' consideration will indicate that there is as little foundation for the charge that a crime was committed in 1894 as there was to the charge made vociferously throughout the country in 1896, when a reference was made to the crime of 1873. The alleged crime of 1894 was simply condoned by the people, and there is, therefore, no necessity for members of the Constitutional Convention of 1894 to defend themselves.

The last speaker has referred to an argument which has been made over and over again, based on the erroneous theory of taxation and representation. The logical sequence of his argument would be, that only those who have property should be entitled to vote; that a property qualification is the basis of representation. Of course, nobody to-day is prepared to accept such a theory, because we find ourselves in the same position that Benjamin Franklin illustrated when he said on one occasion, "If you say that property qualification shall be the test of representation and of the right to vote, then if a man, for instance, has a jackass that is worth a hundred dollars, so long as that jackass remains alive he has the right to vote, but when he dies the right to vote is gone." Does the right of franchise reside in the man or in the jackass? But the idea of representation and taxation was an idea which was much talked of in revolutionary times, and yet when we come to read the Constitution of 1777, we find that the founders of the State had no such idea as is now expressed by our friends on the other side of the Chamber. When we come to section 12 of the first Constitution, which relates to the election of Senators, we find that the State was divided into four great districts. The Southern District was to comprehend the city and county of New York, Suffolk, Westchester, Kings, Queens and Richmond counties, the wealthiest part of the State, the most populous part of the State; the middle district to comprehend the counties of Dutchess, Ulster

and Orange, a small part of the State, so far as taxation was concerned and so far as population was concerned; the Western District, the city and county of Albany, and Tryon county, and the Eastern District, the counties of Charlotte, Cumberland, Gloucester; so in our first Constitution, drafted in the early days, the evolution of this idea of taxation without representation as it is sought to be formulated here, was entirely disregarded as absolutely unsound, and we have written into the Constitution the theory of apportionment according to territory, the very idea that is expressed in a more general form in the Constitution of 1894.

Mr. Nicoll has also read to us, from the debates of 1821, very eloquent passages, but he has forgotten to tell us that in that very Constitution adopted in 1821, there was recognized this idea of territory representation as distinguished from apportionment by population.

Mr. D. Nicoll — My statement is that the apportionment, based upon population and territorial representation, has continued down to the present day.

Mr. Marshall — Your statement then is absolutely correct. And, therefore, it is an indication that all of this talk about the crime of 1894 is pure nonsense, and that what you say, or your side has said, as to the injection into the Constitution of 1894, for the first time, of the idea of territorial districting, as well as conjointly with the idea of population, is not a new thing in our Constitution, but has existed in the Constitution of the State from the very beginning and is part of the public policy of the State.

Mr. Wagner — I ask the delegate whether, ever before 1894, there was a provision in any of our Constitutions that any particular section, irrespective of what its population may there be, shall never be entitled to more than a certain percentage of the entire Legislature?

Mr. Marshall — Not by way of formula, but by way of absolute declaration in the Constitution. Listen to what was done in 1821. At that time the State was divided into eight districts, to be called Senate districts, each of which was to have four Senators. Now, listen to what was done. "The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond and New York." The most populous part of the State then. It was that part of the State to which Mr. Edwards, in his fervid eloquence, referred to as the great part of the State or country, the Imperial City, or words to that effect; and yet those counties which comprehended the largest communities of the State, Suffolk, Queens, Kings, Richmond and New York, were given but four Senators by the Constitution itself. Now, let us turn, merely for the sake of illustration, to the Seventh district. That was to consist of the

counties of Onondaga, Cayuga, Seneca and Ontario. Onondaga then was a very small county in population. The city of Syracuse was not even incorporated in 1821, as a village. The three great settlements of the county probably enjoyed a population of 250 or 300 at that time. Cayuga county had the village of Auburn. Seneca county was a rural county, without any considerable settlement. Ontario county had Canandaigua, a small town, although then a cultured community. But just compare what the farmers of the Constitution themselves did with regard to territorial division and representation. They gave those four counties four Senators, and they gave four Senators only to the counties of Suffolk, Queens, Kings, Richmond and New York. I will find it necessary to go no further by way of illustration.

Mr. Wagner — Is it not true that at that time the Senate was considered absolutely a body representing only the landed interests of the State as against the populace, and that the property qualifications for a Senator were higher than those of an Assemblyman, and that those who voted for Senators had to have a higher property qualification than those who voted for Assemblymen?

Mr. Marshall — That was the case in 1777, but it was not the case in 1821.

Mr. Wagner — It was the case up to 1821.

Mr. Marshall — It was not the case in the Constitution of 1821. The Constitution of 1821 does not contain those qualifications you refer to.

Mr. Wagner — What I wanted to show was that the Senate then was an entirely different body from what it is at the present time. It was to represent the landed interest of the State as against the population.

Mr. Marshall — In 1821 that qualification had ceased. It was considered as the upper House, a body which had to perform important functions besides the functions of legislation, because the Senate at that time constituted a component part of the Court of Errors and was the court of last resort of the State. But that, however, does not change the proposition which I am debating. I am simply trying to show that it has been part of the policy of this State from the very first day of the State, in the creation of the upper House, to consider not only population but to consider territory as well, as an important element as to how the State was to be apportioned for representation in the Senate. That is my sole proposition.

Mr. D. Nicoll — No one disputes you about that.

Mr. Marshall — Some have. You do not.

Mr. D. Nicoll — I do not think it is disputed on our side at all. Why we ask that it be changed now is in view of the fact

that New York has over 50 per cent. of the population and pays 73 per cent. of the taxes.

Mr. Marshall — So far as that proposition is concerned, I am afraid that my mind is not so constituted as to see the relevancy of the question of taxation to the question of apportionment to the State. So far as this question is concerned, I might be willing to admit that the people in those portions of the State that are outside the city of New York do not pay any taxes at all, and still the question of representation would have to be considered.

Suppose the city of New York paid 100 per cent. of the taxes; that would not affect the question as to how the State, as an entity, should be apportioned for the purposes of representation. So long as you have a State as an entity, you have got to lay aside, so far as this question is concerned, any particular question of a small territorial locality as against the entire territory of the State.

Now in 1846 this same idea was indicated in the apportionment that is to be found in the Constitution. That can be easily seen from the fact that the State of New York at that time, or the county of New York, was only given four senators, and when you contrast that with the number of senators which was given to territory in the upper part of the State which had a much smaller population, you will see in a moment that it is a fact, that territory always entered into the question of apportionment. Now as to why this should be so, it is not necessary for me to discuss. I am entirely content to indorse every word that was uttered upon that subject by our friend, Mr. Clinton, in his very admirable presentation of that subject yesterday. Words would only tend to confuse what I consider to be a perfect presentation of the reason which underlies the question of apportionment as to the relevancy of territory as well as population to the problem which is to be solved.

Now, the gentlemen have had a great deal to say about England, and that London — although the heart of England — does not pay any such large percentage of taxes as does New York. I have already said that that is immaterial to this discussion; that although London is the heart of England and contains the largest population embraced within any single territory, as a matter of fact, the representation of London, not only the old city of London but what is considered to be the greater London, in the Parliament of England, has always been much smaller than its proportion of population and that in the English Parliament the idea of locality, or territory, has always been the fundamental one so far as apportionment is concerned.

I have only had this to say because I have thought that a practical interpretation by the various Constitutional Conventions of

the State and by the people of the State, who adopted those Constitutions, is the most potent answer to the oft-repeated assertion that this doctrine formulated in the Constitution of 1894 constituted a political element. It was no such thing. It was merely carrying out a principle which was engrained not only in the people of this State but in England and is to be found, as has been shown, in the Constitutions of other States.

I wish merely to say this one word in conclusion. I am a resident of the city of New York. I am interested heart and soul in its prosperity and its welfare. I, however, have also the privilege of having lived the greater part of my life in another part of the State outside of the city of New York, and for that reason perhaps it has been given to me to have a vision which is not restricted to the island of Manhattan and to recognize the fact that this great State is comprised not only of the great commercial center called the city of New York but it contains a great hinterland, that it contains a great State so far as territory is concerned, which has its interests and which has its part in the development of that whole which we call the State of New York; and, recognizing that fact, I believe that it would be a wrong to the people of the State if at least in one of the two Houses which constitute the Legislature the idea of territory should not be considered.

Mr. Deyo — Mr. President and Gentlemen of the Convention: This debate has covered a very wide range, from that of exalted statesmanship to that of earnest partisanship. I have been particularly impressed, with the dignified, the eloquent and the statesmanlike position taken by Delegate Morgan J. O'Brien, Delegate Nicoll, Mr. Marshall, President Schurman, and my neighbor, Mr. Clinton, who sits at my left, not to disparage the eloquence and the earnestness of other delegates who have participated in this discussion. One feature, however, in this discussion, I feel has been lost sight of: Delegate Nicoll has urged, with great force and eloquence and with great feeling, that the principle of taxation and representation should not be lost sight of in this discussion; and the appeal has been made over and over again that, inasmuch as New York city pays 70 per cent. or 73 per cent. of the State taxes, that fact should not be lost sight of in determining the question now before the Convention.

The point which I wish particularly to make is this: New York city, as a city, does not pay one cent of State taxes. There is not a city in the State which pays any portion of our State taxes. There is not a county in the State which contributes one dime to our State finances by direct taxation. The pressure of taxation is not upon municipalities; it is upon the dollar. And that pressure is equal upon every dollar, whether that dollar be found on

the island of Manhattan, along the streams of Saratoga, or along the banks of the St. Lawrence. As a municipality New York pays no taxes, no direct taxes to the State.

The pressure of State taxation, direct taxation, is not upon the municipality; it is upon the individual based upon assessed valuations. Therefore, it makes no difference what percentage of the entire assessed valuation is included within any given municipality. That makes no difference so far as that municipality's relation to the State is concerned, because the pressure of direct taxation is upon the dollar.

If there were any argument, therefore, to be drawn from the statement advanced, the man who pays the largest amount of taxes should have the greatest influence by his vote. You people down in New York complain about your rate of taxation. You say your taxes are high. Your rate, I believe, is 1.90. I will venture to say that there is not another city in the State whose rate of taxation is as low as the city of New York. My own city is twenty-nine; Elmira is thirty, Buffalo is forty; and a village of five thousand which joins our city is over thirty; and you will find in the majority of the cities and villages of the State, if not in all of them, the rate of taxation exceeds that of New York city.

Mr. Wagner — I hope the delegate does not lose sight of the fact that it makes a difference whether the rate is figured on the full valuation, or on thirty or forty per cent. of the valuation.

Mr. Deyo — I have heard that argument over and over and over again, until I am sick and tired of it, and I should think that Senator Wagner would even be ashamed to speak of it.

Mr. Wagner — Well, I am not ashamed to speak of it.

Mr. Deyo — For the reason that the assessment of property is supposed to be for its full value, one hundred cents on the dollar. The assessors who make your valuation are sworn under their oath of office to make your assessment at full value. The result is that in some counties of the State the oath of the assessors is not observed. In New York city your rate of assessment, according to the State Board of Equalization — I don't remember just the exact figure — but it runs from eighty-seven to ninety-four. I don't remember what the rate was, but according to the State Board of Equalization, the rate of assessment in New York city was put in at a certain figure. I think it was ninety or ninety-four, and in some of the other counties, I think in my own county, it was put at eighty. The State Board of Equalization equalizes those assessments as between the counties, and when the State tax is fixed, that is taken into consideration.

So that the result is that the pressure of taxation upon every dollar, whether it is found in New York city, or whether it is

found up-State, is identically the same, regardless of the assessment which the local assessors have put upon it. There is no one that knows that better than Senator Wagner, who is so familiar with the tax laws of the State of New York. But that is not the point. There is another point. The other point is this, which many of the delegates in their discussion have lost sight of. There is a fundamental principle that lies much deeper than any question of partisan advantage.

I have listened with a great deal of pleasure to the eloquent remarks of Senator Wagner, and of my friend, Governor Sheehan, and of others who have portrayed the condition in New York city and the emergency of this case, but it is not a question of politics, notwithstanding the statement of Mr. Delegate A. E. Smith to the contrary. There is a fundamental principle lying back of it all; a proposition which is recognized by every student of our political institutions, and that is, in a representative government the gravest source of danger comes from the large communities where you have a large congested population. It is a recognized fact. There is not a writer upon our economic conditions, there is not a writer upon our social institutions, who does not recognize that fact.

Now, then, from 1821 to 1894, as has been said, there was no limitation upon the representation of New York city in the Legislature of the State. In 1892. No one remembers it more vividly than my friend, Governor Sheehan, and myself, as to what occurred in 1892.

Now, I am not going to thresh over old straw, but you will remember what was charged up to Governor Hill at that time. I am not going into the discussion of it, or the part which that eminent jurist, Judge Maynard, played in securing a Democratic majority in the Senate. I am not going into those things at all, but the fact remains that the Democrats obtained a majority in both branches of the Legislature in 1892. and immediately proceeded to carry out the mandate of the people with reference to an apportionment.

The results you all know. Albany county, with a population of 159,000, I think, was given four members of Assembly. Monroe county, with a considerably larger population, was given three members of Assembly. New York county, with a certain population, was given two or three members of Assembly more than she was entitled to, under the pro rata rule that was not in the Constitution, but which was laid down by the Legislature, and so it went.

That apportionment was, as Delegate Nicoll has stated, so unfair, and recognized to be so unfair, that it was taken up in the

Constitutional Convention of 1894, and that Convention determined that there should never be a repetition of what was done in 1892 by either Democrats or Republicans.

Gentlemen, I do not mean by what I have said that Democratic majorities are the only ones who have been guilty of improprieties and injustice in the matter of apportionment; not by any means. The fault has not all been, cannot be all laid, upon the shoulders of one party, but the Convention of 1894 determined that there should be no repetition of the acts of 1892 by any party; and, therefore, this careful rule of apportionment was embodied in the fundamental law, or rather recommended to the people.

My friend, Delegate Nicoll, and some others who were members of that Convention felt sorely aggrieved at the action of that Convention, and, if I remember, he and some others declined even to unite in the address to the people, urging the adoption of the Constitution by the people.

Mr. D. Nicoll — They got it in an address of our own.

Mr. Deyo — You were a member of the committee that was appointed by the President, but declined to unite in the address. But, in order to be perfectly fair, that provision was submitted to the people as an independent proposition. And what was the result? The result was that the apportionment article submitted independently, was carried by the voters of this State, by a majority of something like fifty odd thousand and even a majority of the voters of the city of New York voted for it.

So, when you speak about the crime of 1894, or when you attempt to indict the members of the Convention of 1894 you are indicting the people of the State of New York. A great statesman said a good many years ago that you cannot indict an entire people.

Now, that provision has remained in the Constitution, and is there now. Let us see what happened. This Convention was ordered by the Legislature. The delegates were nominated. The issue was before the people, and I submit to you in all fairness that the one issue upon which we occupy our seats here to-day was the question whether that limitation should remain in the Constitution or go out. You were beaten in your referendum on that proposition. The people decided by an overwhelming vote that that limitation should remain in the Constitution; and we are occupying our seats around this circle to-day in response to that mandate, and as a result of that referendum. And, upon my conscience, I feel that I am bound by the vote by which the people of this State expressed themselves at the last election in favor of preserving this mandate in the Constitution just as it is. And when you attempt to indict us of the majority for taking

that position you are simply indicting the people of the State of New York, to whom you submitted your case, and where you lost.

Now, this is not a partisan proposition. I tell you again, there is something deeper than that. I believe it is unsafe, as a fundamental principle of government that any community should obtain an undue influence in the political control of any State. I will not discuss that at length, but it has already been developed at great length and with great earnestness.

My friend, Delegate A. E. Smith, in appealing to you and explaining to you what the city of New York has done for upstate when that city had the power referred to the appropriations that were made in 1913. That illustrates precisely the argument which we people upstate are using and which is being urged to persuade us to preserve the limitation now in the Constitution. There are some men — and I say this with no intent to give offense to any member of this Convention — there are some men from the great cities who are disposed to measure the importance of their service to the State by the size of the appropriation bills which they succeed in passing. There is the trouble, and that is the trouble with the city of New York. The men who send you here are not the men who pay the taxes. I remember distinctly a remark which a friend of mine made to me in the Legislature some years ago. He came from one of the districts of New York city. He said to me: "What are you kicking on these appropriations for?" He said, "So far as I am concerned, I have been in the Legislature many years, and I have never yet voted against any bill by whomsoever it was introduced, Democrat or Republican, that carried with it one dollar of appropriation." I said to him, "How can you do that?" He said, "What difference does it make to the men who send me up here? They don't pay the taxes, and it pleases the other fellow."

Mr. D. Nicoll — Doesn't every man who pays rent pay taxes?

Mr. Deyo — To be sure, Mr. Nicoll, in a certain sense that is true.

Mr. A. E. Smith — How long ago was that?

Mr. Deyo — That was in 1892.

Mr. Smith — Twenty-two years?

Mr. Deyo — Yes.

Mr. Smith — I would like to say for the gentleman's information that in the present day the exact reverse of that is the fact.

Mr. Deyo — I only know this, that Delegate Smith, in trying to impress upon our minds the fact that the majority from New York city, which controlled the Legislature in both branches in 1913, served the people well and faithfully, read here in our presence to-day a list of the appropriations and compared the

amount of those appropriations with the appropriations which were made by the Legislature in 1910, and he would have us believe that inasmuch as the Legislature of 1913 had appropriated more money, therefore they had rendered a greater service to the State. Now that is the New York city idea of legislation, or was twenty years ago, and I protest against it. We people upstate represent taxpayers. Our men up there are in the habit of scrutinizing matters of expenditure very closely; while I say that, so far as the majority of the members from New York city are concerned, they did not twenty years ago — and I have watched legislation with some care since then — they did not scrutinize matters of appropriations with the care with which the men who are brought up between the furrows are accustomed to scrutinize matters of expense. Another thing, so long as New York city is represented in the Senate and Assembly by such brilliant men as Senator Wagner and Assemblyman Smith there will be no trouble whatever about New York city getting all that is coming to her.

I don't know that I have anything further to add to the arguments which have been made, but I believe that this proposition is fundamental; we should not depart from it. It is true, in the first place, that taxes are not paid to the State by municipalities or by municipal corporations, by counties, towns or villages. They are paid by the taxpayer. If I own \$1,000 worth of property down in Manhattan borough I am taxed at the rate of \$1.95 on that property for State, municipal and county purposes. If I own \$1,000 worth of property in the city of Binghamton I am taxed \$29 a thousand on that same basis of assessment as I pay upon the property which I own in the city of New York. But there is a further element, and that is fundamental. It is a danger recognized by all writers upon our political institutions for any municipality which represents a large aggregation of congested population to control the destinies of any State. New York city has got problems of its own, serious problems of its own. I do not think that New York city's action has been in days gone by entirely what we could laud as the ideal in municipal government, but during my experience of several years in the Legislature I never saw an instance, I never saw a single case when any bill affecting New York city by way of creating an office or increasing or fixing salaries was ever passed by the Legislature, whether it was controlled by a Republican or a Democratic majority, unless it met with the approval of the representatives of New York city in the Legislature.

I have over and over again, and every man about this circle who has served in the Legislature will testify to the same experience — over and over again I have been approached by representatives, not in the body, but by officials of the city of New York,

asking us countrymen to come in and help defeat some measure affecting the city of New York, which was receiving the unanimous support of the representatives of that county, or from that city, and in reply to the question, "It is a local measure; why do you come to us countrymen and ask us to step in and interfere with an affair of that kind which your own representatives are in favor of; why don't you go to your own representatives?"—and the answer would come back, "Why, they do not represent the best interests of New York city." Of course, at the present time, with Senator Wagner in the Senate and Delegate Smith in the Assembly, New York city is properly represented, and I have no question whatever that that condition of things which existed along back in the last century no longer prevails.

For these reasons, gentlemen, in addition to those which have been given more eloquently than by myself, I shall vote to sustain the report of the Committee. And, further than that, I shall, when the time comes, if I then am of the same mind as now, vote in favor of preserving in the Constitution the provision which is now there, without the change of a single word or a single letter, except so far as may be for the purpose of complying with the necessary change of dates, and so on.

So that if my friends from New York city are at all disposed to carry out their threat to defeat the Constitution by reason of that vote, they will, if successful, find themselves in the same position as now.

Mr. Wickersham — Mr. President, at this hour of the evening and after the time that has been given to the discussion of this subject, it seems a work of supererogation to add anything to what has been said, and yet, before this debate is closed, I should like to make one or two brief observations with respect to the subject now under consideration, because it involves a fundamental conception of government. Sometimes during this debate, Mr. President, it has seemed to me that there was a misconception on the part of some of the speakers as to what was before the House and what was under debate. Sometimes it has seemed to me that anyone sitting in the gallery would have thought that the representatives of the majority in this body were seeking to inject, for the first time in the history of the jurisprudence of this State, a novel provision in Constitutional government. As a matter of fact, as the debate has swung toward its close, and as it was brought by my friend, Mr. Nicoll, to that charming, suggestive, scholarly conclusion, it became obvious then that what we were asked to do was to undo the work of the Convention of 1894. Mr. Nicoll, with that candor which characterizes him always, depicted the reasons why the Convention of 1894 was constrained to enter upon the question of apportionment. In an earlier stage he held

up before us, in terms that made a deep impression, the results of the introduction into that Convention of the subject of apportionment, and I think nothing that has been said here has had a more widespread influence among the members of this body in persuading them that it was very inexpedient to enter upon the subject of the reapportionment, unless it became absolutely necessary, than the few eloquent words in which Mr. Nicoll described the consequences of opening the Pandora's box in 1894. But, Mr. President, the men of that Convention did more than make an apportionment, which was called for by the circumstances of that time. They realized — I do not need to say to those who were in that Convention, they realized the difficulties of such a body dealing with that subject, and so they sought, while making an apportionment, to undo the political inequity which had been committed but two years before. They sought to lay down rules under which in the future reapportionments could be made to meet the demands of growing population, almost automatically, and without the great uncertainties, the heart burnings, the wire pullings which had attended the making of that apportionment, and, to complete their work, they put in the Constitution a provision giving the cities the right to appeal to the courts, to determine whether or not their work squared with the rules which they laid down. Now, among those rules were two which we are now asked to strike from the fundamental law. One of them, the first, recognized as a governmental unit, that organization of the State, which since 1683 has been the unit of governmental organization in the State of New York; the County. The other provision sought to safeguard against the undue concentration of power in one part of the State, of which there was grave apprehension in the minds of many of the delegates, and apparently in the minds of the people at large. There was grave apprehension lest it should bring about a distortion of the true functioning of the government of the State. All government, Mr. President, is a matter of compromise. That which distinguishes the government of English-speaking peoples from the governments of other peoples has been that we have made our compromises. We have accepted them. We have lived under them and we have thrived under them. No scheme of government that ever was put into active operation by living man is ideal. A Utopia may be written and delight the student in his library, but the actual governments of living men, among English-speaking peoples, have always been compromises and paradoxes, and that is the way we have got on.

Now, it has seemed to me sometimes in the course of this discussion that the impression was disseminated among the delegates, and from them to the people of the State at large, that this limitation upon the consequences of the great growth and congestion of

population in one corner of the State had been put there by the enemies of the city of New York; had been foisted upon them by outsiders, and that it was something which every citizen of New York should rise in his might and seek to undo. But, Mr. President, that provision was a compromise which was not only assented to, but it was applauded by the foremost citizen of New York, and over his own signature; the nestor of the American bar, the first citizen of the city of New York, and the first citizen of the State of New York, the man whom all Republicans and Democrats alike delighted to honor — Joseph H. Choate subscribed to that as in his opinion it was an admirable provision.

In the letter which he wrote and published in the New York Tribune shortly before the election of 1894, at which the Constitution was adopted, Mr. Choate, using this language, “But the **greatest virulence of Senator Hill’s attack**”—Senator Hill, then the leader of the Democratic Party in the State of New York, had attacked this Constitution, largely for the same reasons which to-day form the battery which has been directed against these provisions by the members of the minority. He said:

“But the greatest virulence of Senator Hill’s attack is directed against the rule laid down by the Convention as to future apportionment, that no county shall have more than one-third of all the Senators, and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the Senators.

“I deem this on the contrary one of the most reasonable, just and wholesome provisions ever introduced into an apportionment. It has no bearing upon party politics; it is not a question of party, but is a question of the just and reasonable relations that should exist between dense aggregations of populations in cities and the scattered inhabitants of rural districts, in the distribution of political power in the law-making branch of a representative government. Representative government is not, never has been, and cannot be based upon division of political power by exact equality of numbers. It is not possible to divide the State into fifty districts of 115,565 inhabitants each, or into 150 Assembly Districts of 38,255 each. Besides, territorial considerations, as a qualification of exact numeral distribution of population, have always been recognized as an essential element of apportionment, as the cardinal rule in respect to representation of counties already stated shows. Where a densely packed population is crowded into a great city, to which by reason thereof is allotted such a proportion of Senators as 12 out of 50, and of Assemblymen as 35 out of 150, it is unavoidable that by the aggregation of the force of numbers an immense advantage is obtained by that locality over

other portions of the State that act separately by single individual representatives.

"New York county, for instance, with thirty-five Assemblymen and twelve Senators in the new Senate and Assembly, will exercise in legislation, by the mere momentum of those numbers, a vast excess of power over the districts of sparse population having in the aggregate the same number of Senators and Representatives. It has, therefore, been adopted by all enlightened states as a cardinal rule of apportionment, necessary for the just preservation of the proper balance between the crowded urban districts and the scattered rural districts, that some consideration shall be paid to extent of territory as a qualification of the rule of numbers; nor has this ever been regarded as a departure from Republican or Democratic principles, or any invasion of the rule of the majority."

Mr. President, it seems to me that what I have quoted from Mr. Choate sums up, as well as words could put it, the history; there is the statement of the fact and the reason for the rule. It is no new thing. If my memory serves me right, in the Constitution which Thomas Jefferson drafted for the State of Virginia he provided that no amendment should be adopted to that Constitution except by the vote of a majority of the inhabitants in forty per cent. of the counties. In other ways, in other Constitutions of other States, the same principle has been applied. It is a total misconception of constitutional law to suggest that government by the people, that Republican government requires that every citizen shall have a vote for every official of the State, independently of population of district, independently of all considerations.

And, sir, perhaps it is because of the rule which has been observed in this State since the foundation, that every county should have at least one representative in the Assembly, that we enjoy that state of prosperity, that state of lawfulness and law-abidingness which has ever characterized the people of this Empire State. But, sir, if it be true that some modification should be made in this provision, we have no such before us.

We are challenged by the representatives of the minority to simply strike out from the Constitution this rule, based in part upon an unbroken history of two hundred and forty years, in part upon the apprehension of that very thing which has led other free states to provide similar methods to protect themselves, that we shall strike that out, without substituting anything therefor in its stead, repeal entirely, throw to the winds all lessons of experience and all apprehensions from conditions that are confronting us, and trust to a rule which never has operated under such conditions in the history of the world.

I submit, Mr. President, that this body will embark upon no such task as that. I submit, Mr. President, that if the members

of the minority could, by their votes, strike out this provision from the Constitution, if the responsibility was theirs, we would hear a very different advocacy.

I submit, sir, that when the members of the Constitutional Convention of 1894, with the wisdom that characterized them, for they were able men, put into the Constitution the provision which has not yet become operative, but which to-day seems more likely sometime to become operative than ever before, they were wise men, because the wise are they who foresee trouble before it comes and make provision before it is at their door.

Now, Mr. President, enough has been said on this subject. I do not care to speak merely for the purpose of speaking. The suggestions that I make appear to me sufficient to warrant me in voting to support the report of the Committee, and as this debate has now extended over a considerable time I shall move the previous question.

The President — The question before the Convention is, shall the question now be put? All in favor of the motion will say Aye, contrary No. The Ayes have it, and the motion that the main question now be put is agreed to.

The question is upon agreeing to the adverse report of the Committee on Legislative Organization.

Mr. Wagner — Mr. President, what is the proposition?

Mr. Sheehan — Is not the proposition this, shall the adverse report of the Committee be disagreed to?

Mr. Brackett — The question is, shall the motion of Senator Wagner be agreed to? Senator Wagner's motion was to disagree to the report of the Committee.

The President — Senator Wagner's motion was to disagree with the report of the Committee.

Mr. Wagner — And upon that I ask for a roll-call.

The President — The roll call is asked for. Is the call seconded? Those in favor will rise. A sufficient number are up.

The Secretary will call the roll.

A vote Aye is to disagree with the report of the Committee. A vote No is a vote to agree with the report of the Committee.

Those who voted in the affirmative were: Messrs. Ahearn, Baldwin, Bernstein, Blauvelt, Burkan, Byrne, Dahm, Donnelly, Donovan, Dooling, Eppig, Foley, Frank, Haffen, Harawitz, Mann, F. Martin, Mulry, Newburger, D. Nicoll, Potter, Richards, Ryan, J. G. Saxe, Sheehan, Shipman, Slevin, A. E. Smith, T. F. Smith, Unger, Wagner, Ward, C. A. Webber, R. E. Weber, Weed, J. J. White — 36.

Those who voted in the negative were: Messrs. Adams, Aiken, F. C. Allen, Angell, Bannister, Barnes, Barrett, Baumes, Bayes, Beach, Berri, Betts, Bockes, Brackett, Brenner, Bunce, Buxbaum,

Clearwater, Cobb, Coles, Cullinan, Curran, Dennis, Deyo, Doughty, Dow, Dunlap, Dunmore, Eggleston, Fancher, Fobes, Franchot, Gladding, Green, Greff, Hale, Heaton, Hinman, Johnson, Kirby, Landreth, Latson, Law, Leggett, Lennox, Lincoln, Linde, Low, McKean, McKinney, McLean, Marshall, L. M. Martin, Mathewson, Mealy, Meigs, C. Nicoll, Nye, J. L. O'Brian, Ostrander, Owen, Parker, Parmenter, Parsons, Pelletreau, J. S. Phillips, S. K. Phillips, Quigg, Reeves, Rhees, Rodenbeck, Rosch, Ryder, Sanders, Sargent, M. Saxe, Schoonhut, Sears, Sharpe, E. N. Smith, R. B. Smith, Steinbrink, Stimson, Stowell, Tanner, Tierney, Vanderlyn, Van Ness, Waterman, Westwood, Wheeler, Whipple, Wickersham, Wiggins, Williams, Winslow, Wood, C. H. Young, F. L. Young — 99.

When Mr. Barnes' name was called he said: Mr. President, I ask to be excused from voting and will briefly state my reasons. The question has been raised here that this article of the Constitution is a violation of right — what we know as civil rights. Holding as I do that the suffrage is not a right but a privilege, there cannot be any violation of a civil right in the present Constitution; and holding that the principle of territorial recognition and the making of an apportionment, as well as the recognition of the population, is sound, I ask to withdraw my excuse, and vote No.

When Mr. Bell's name was called he said: I expected to be unavoidably called away this afternoon, and I found that Senator Griffin was also to be away and so I paired with him, and I therefore ask to be excused from voting.

The President — Unless there is objection, the excuse will be granted.

When Mr. Buxbaum's name was called he said: Mr. President, I ask to be excused from voting, and to make this brief statement now. I wish to say that I echo the sentiments so ably expressed by the learned Delegate from Saratoga county, Senator Brackett, and to express my conviction that the retention of the restrictive section in the Constitution will in no respect retard or injure the progress of New York city any more than the present restriction has in any way prevented its marvelous and unprecedented growth, during the last twenty years, during which the said limitation was in effect. I have unbounded faith in the patriotism and unselfishness of the people of the State, which will prevent in the future as it has in the past a sharp conflict between the united representatives of the city of New York, on the one side, and the united representatives of the rest of the State, on the other.

I do not believe that the retention of this clause will be so resented by the voters of the city that they will sentence those of its

representatives here who voted for it to eternal oblivion and contempt, nor do I believe that it will cause the realization of Governor Sheehan's terrible threat of secession. I now withdraw my request to be excused from voting, and vote No.

When Mr. Clinton's name was called he said: The unavoidable absence at this time of Judge O'Brien, not entirely unavoidable, but due to his desire to attend, as representing the Bar, the funeral of Judge Gray, has induced me to agree with him to pair. I ask that I may be excused from voting.

When Mr. Donnelly's name was called he said: I ask to be excused from voting, and will briefly state my reasons. I come here as a delegate of New York city, and with sorrow arise upon this floor as a representative of the only city upon the face of the earth that has two standards of government applied to it, one for representation and another for taxation, and both applied so as to hurt that city. I cannot conceive, in a government of free men, that the members of this Convention can permit such a result as is about to be accomplished here to go forward. I therefore protest against such a result and withdraw my excuse from voting and vote Aye.

When Mr. Dooling's name was called he said: Mr. President, I ask to be excused from voting and will briefly state my reasons. I am very reluctant to disagree with the report of any Committee of this body with respect to a subject which they have considered and upon which they have made a report. I have listened for two days in vain for some reasons that would justify me in sustaining the Committee in the report that it has made. No justification has been given for the wrongs which have been perpetrated upon the inhabitants of the city of New York for the last twenty years. Apologies, it is true, have been offered for those wrongs, but those apologies do not excuse the wrongs that have been inflicted, nor do they justify a perpetuation of those wrongs for twenty years to come. The people of this State to-day are in a different mood and in a different temper from what they were twenty years ago. We are here in obedience to a loud and insistent call to revise the present Constitution, to perfect it, to modernize it. The people will have the last word to say upon our work here.

Mr. Wickersham — I rise to a point of order.

The President — The gentleman will state the point of order.

Mr. Wickersham — A delegate has a right to state the reasons for his vote, but he has no right to make a speech.

The President — The point of order is not well taken.

Mr. Dooling — I did assume, Mr. President, that certainly in a Constitutional Convention no attempt would be made to gag a representative representing a constituency from the city of New

York, and I regret so distinguished a member of this body as the gentleman who has raised that order has presented that question.

We are here representing the people of the whole State, and we must obey the call which they uttered when they sent us here. The conditions call for a remedy, call for perfecting of the Constitution.

If we are to heed the admonitions of the people, as voiced in 1912, I think we will hesitate before we take the step which the majority seems about to take on this proposition. If you are about to declare that, for all time, the people of the city of New York shall not have just and fair representation in its legislative bodies, then you are creating distrust, and you are causing a lack of confidence in the minds of the people of this State as to any action which this body must take, and that will be reflected by their votes in November next. If there is a feeling, on the part of the majority delegates to this Convention, that the city of New York, by its representation, if it is given equal representation, will be unjust to the people of the rest of the State, there is a remedy at your hands. You can, in the provisions of the Constitution, require that the Legislature must, by a two-thirds vote, act on all matters affecting the whole of the State. That, I think, would help solve the problem which seems to confront many of the delegates here. If it is not a solution, the people of New York city demand, and will insist upon, and will be satisfied with nothing else than fair and equal representation. I withdraw my request, Mr. President, and vote Aye.

When Mr. Dykman's name was called Mr. Berri said: Mr. President, Mr. Dykman and Vice-President Schurman have asked me to announce that they are paired.

When Mr. Foley's name was called he said: Mr. President, I desire to be excused from voting, and will briefly state my reasons. Mr. President, I am in accord with the spirit which is shown by the Chairman of the Committee on Legislative Powers, Mr. Barnes. He has introduced an amendment, prohibiting the Legislature from granting hereafter to any class of individuals any privilege or immunity, and to that I would add especially the highest privilege allowed to any citizen, the right of equal representation in the State Legislature.

Some of the members in Convention, especially those that were in the Convention of 1894, have referred to the fact that the limitation of the Constitution of 1894 has never become effective, and to that I say that the fact that the intent to commit the crime was not consummated does not excuse the motives of those that attempted it, and I say also that based on the history of legislation in this State during the past seven years, and I refer especially to the course of direct primaries, that the people will

find the remedy for this situation; for just as soon as the people at large throughout the State got the impression that something was being taken away from them, in the control of nominations, there sprang up a movement for official ballots and for State regulation of elections, and for State control of the parties, and that demand grew from year to year, until even those who were opposed to it at the beginning came around and ratified it by a law in 1913. Now, I say that that grew out of the feeling on the part of the people that they were being denied the right of participation in party affairs, and through party affairs, in State affairs. Just as soon as this limitation becomes effective on the people of the State of New York, you will find springing up among them the demand for the initiative and referendum and other devices to break down representative government. Just as soon as they find out that a majority of the people of the State of New York, then being in the city of New York, are not represented by a majority of legislative representatives, and cannot obtain the wishes and desires that they have set out for, there will come this demand throughout the State for the enactment of the initiative and the referendum, and the very thing that you are trying to stop by this Convention, because I think — a large majority of the Convention favor a purely representative government rather than a purely personal government, the very thing you have set out to prevent here will be accomplished.

Mr. President, I withdraw my request and ask to be recorded in the affirmative.

When Mr. Mandeville's name was called Mr. Dahm said: Mr. President, I have a letter from Mr. Mandeville that he is unavoidably detained at home, and I ask that he be excused from attendance to-day.

When Mr. C. Nicoll's name was called he said: One of my colleagues from New York has had the temerity to pass the sentence of political death on me and other Representatives from the Republican districts for attempting to pass this amendment, and I desire to exercise my right to explain my vote and to exercise the immemorial right of the convicted to state why judgment should not be passed against me. As has been said, the relation between the State and the city of New York is a novel one, and in cases of novel impression we strive to find proper solution by analogy.

One of the fundamental principles which has guided the action of mankind in forming large bodies, corporate bodies, is that no creature of the State, no political subdivision of the State, whether it be a political subdivision entirely, or whether it be a business

subdivision, or a business corporation, shall have the power or have the right or the opportunity to dominate the creator that gave it breath. We should adhere to that principle.

Another thing that has been brought out clearly in the debate is that in the majority of the states, wherein a similar situation exists, as well as in the Federal government, some scheme has been devised to limit the power of the larger communities to dictate to the smaller ones, and we should adhere to that idea as well.

And so in spite of the glowing future, that has been predicted by my distinguished relation in this Convention for the Republican Party in New York, and at the risk of possibly limiting the number of Republican Senators and Republican Assemblymen elected therein, I desire to record my vote in the negative.

When Mr. Ostrander's name was called he said: Mr. President, I wish to make a correction. I misunderstood the call. I supposed, when the secretary called Mr. O'Connor's name, that it was my name and I voted "No." I wish to correct that impression, because Mr. O'Connor apparently is not here. I vote No.

When Mr. M. Saxe's name was called he said: I make the usual request, in order to state my reasons.

Mr. President, as a delegate from the city of New York, I do not believe that the majority of the citizens of the city of New York are insistent that the present provision of the Constitution with respect to apportionment should be changed.

I believe that they are big enough to realize that there should be other consideration than population, for the purpose of determining representation.

What the people of the city of New York want, and what I believe this Constitution will give them, if I am not mistaken in the work that is being done in Cities Committee and the Committee on Taxation, is the right kind of home rule and the right kind of principle of taxation in the Constitution.

I have every hope and confidence that these Committees will produce what the people of the city of New York really need and really want.

So I withdraw my request, Mr. President, and vote No.

When Mr. T. F. Smith's name was called he said: I desire to be excused from voting and to explain my reason.

After all that has been said, and so well said, by my colleagues against the retention of the provision in the Constitution limiting the representation of and discriminating against the city of New York, I can say but little to strengthen their arguments. With force and earnestness they have shown the gross injustice done by

the retention of so unfair a provision in so sacred an instrument of government as the Constitution of a great State.

Since its inception twenty years ago the people and the press of our city have protested repeatedly against a restriction designed to hold them indefinitely in political thralldom by the rest of the State.

Manifestly, a Constitution that is profaned by such a provision and permits such a glaring inequity flouts the principles of democratic government when it permits a minority to govern a majority, for it is a fundamental principle of democracy that a majority of the people shall rule.

There are, however, some innocent delegates from the city of New York who came to this Convention with the hope and the expectation that the American love of justice and sense of fairness would prevail, and that the offending restriction would be eliminated.

The men to whom I refer have had little political experience. They are not familiar with the influence that dominated the Convention of 1894, neither do they know the history, the origin, the motive and the development of this objectionable provision.

They were simple enough to suppose that under the solemn and dignifying influence of such an occasion as this, and in such a presence, a high-minded presence as this, that those who entered here would leave partisanship behind, and that the spirit of justice and patriotism would enrich the air, purify the atmosphere and refresh the delegates.

Only a few days ago their hopes were stimulated when they heard one of our leading publicists dilate on the unwisdom of injecting into the proceedings of this Convention questions of a partisan or of a political character, and who in his sweet and angelic way suggested that the proper body to make a reapportionment is the Legislature, which is bound by rules and restraints fixed by the Constitution.

These gentle delegates seemed overjoyed by the glad tidings and lofty sentiment thus released, for they looked witheringly over at our brothers Wagner and Smith and the rest of the impious, and then turned and applauded the speaker and murmured, "Blessed are they that walketh not in the counsels of the ungodly."

But when they emerged from their twilight sleep they realized that every effort was made, not only to retain the indefensible restriction, but that with their characteristic audacity, the same influences that put it into the Constitution of 1894, insisted upon retaining and reinforcing it so that our city would be shackled and gouged for twenty years yet to come.

In the advocacy of this measure it has been asserted that this

restriction was put into the Constitution in order that the city of New York could not dominate the rural sections of the State. Does anyone familiar with the history of this State labor under any such delusion?

Why, gentlemen, the core of the matter is that the elements and influences that controlled the Constitutional Convention twenty years ago are trying to dominate this Convention, and that in order to make sure that the Republican party will for all time retain and strengthen its grip on the State, they purposely put this oppressive provision into the Constitution.

The self-evident truth is that it was not put in because they feared New York would try to dominate the up-state, but it was adopted because they feared lest the Republican party might not be able always to dominate the entire State.

That sums up the situation. The patience of the people of the city of New York is about exhausted.

The President — Your time is up.

Mr. Smith — Mr. President, I am just closing. With a few more words, with your permission, I will close; or I will close now, just as you say.

The President — The President has no power. You may proceed by unanimous consent.

Mr. T. F. Smith — The patience of the people of the city of New York is about exhausted and as sure as night follows day if this tyrannical restriction is retained, the people of the city of New York will rise up and vindicate the twin principles of democratic government, that the majority shall rule and that taxation shall not obtain without just and fair representation.

I thank you, Mr. Chairman, and I vote Aye.

When Mr. Stanchfield's name was called Mr. Sheehan said: Mr. President, may I announce a pair between Mr. Stanchfield and Mr. Wadsworth?

Mr. Wagner — I move to reconsider the vote by which my motion was defeated and that the motion be laid upon the table.

Mr. Brackett — No, no; let us dispose of it now.

Mr. Deyo — Mr. President, a point of order as I remember under the rules is that the motion cannot be made on a resolution by a gentleman who voted on the losing side.

The President — The point of order is well taken.

Mr. Brackett — Mr. President, I move that the report of the Committee reporting the O'Brien amendment adversely be agreed to.

The President — All in favor of the motion say Aye.

Mr. Wagner — Mr. President, I want to make a suggestion so we might be on record. I was going to ask for another roll call.

The President — The gentleman from New York, Mr. Wagner,

was on his feet before the vote was completed, and the Chair will recognize him and ask for a roll call if he wishes it.

Mr. Wagner — In order that I may not further exhaust the patience of the delegates, I was going to suggest that the vote upon my motion be reversed now and be considered the vote upon the motion to agree with the report of the Committee.

The President — The Chair cannot entertain it.

Mr. Wagner — I ask for a roll call, Mr. President. I move that there be a roll call upon this question.

The President — Is the demand for a roll call upon the motion of the Chairman of the Committee to agree with the report of the Committee, seconded?

Mr. Brackett — Mr. President, I hope the Senator will not press the roll call. I think he may safely assume that it will be regarded in this Convention and all future time — the dim historian of the far future will regard that the roll call on this motion would be the reverse of what was recorded when the roll was called. I do not see how the President could accord to him the right to have stated that it should be so recorded, but as a matter of fact, without any such action it will be so recorded.

The Senator is too good a sport to insist on having a roll call at the present time.

Mr. A. E. Smith — Mr. President, I suggest that we take a party vote on it.

The President — The question is, whether the demand for a roll call is seconded.

Mr. Wagner — Mr. President, may I suggest that it is not quite so humorous as some of the delegates may think, because the recognized leader of the majority, General Wickersham, throughout his discussion referred to the majority of this body and the minority of this body, so that the request of Delegate A. E. Smith is a perfectly proper one, in view of the procedure had.

Mr. J. L. O'Brian — I call your attention to the fact that that would not be an accurate vote, because the only Democrat not sitting from the city of New York voted in the negative, Mr. Schoonhut of Buffalo.

Mr. Wagner — My recollection is that there was a Republican who voted in the affirmative, two of them; that would not be an accurate vote.

The President — The question is whether the demand for the roll call is seconded. Those who wish to second the demand for a roll call will rise. A sufficient number is up. The Secretary will call the roll. Now, a vote "Aye" is a vote to agree with the Committee report. A vote "No" is a vote to disagree with the Committee report.

The Secretary will call the roll.

Those who voted in the affirmative were: Messrs. Adams, Aiken, F. C. Allen, Angell, Bannister, Barrett, Baumes, Bayes, Beach, Berri, Betts, Bockes, Brackett, Bunce, Buxbaum, Clearwater, Clinton, Cobb, Coles, Cullinan, Curran, Dennis, Deyo, Doughty, Dunmore, Eggleston, Endres, Fancher, Fobes, Franchot, Gladding, Green, Greff, Hale, Heaton, Hinman, Johnson, Kirby, Latson, Law, Leggett, Lennox, Lincoln, Linde, Low, McKean, McKinney, McLean, Marshall, L. M. Martin, Mathewson, Mealy, Meigs, C. Nicoll, Nye, J. L. O'Brian, Ostrander, Owen, Parker, Parmenter, Parsons, Pelletreau, J. S. Phillips, S. K. Phillips, Quigg, Reeves, Rhees, Rodenbeck, Rosch, Ryder, Sanders, Sargent, M. Saxe, Schoonhut, Sears, Sharpe, E. N. Smith, R. B. Smith, Steinbrink, Tanner, Tierney, Vanderlyn, Van Ness, Waterman, Westwood, Wheeler, Whipple, Wickersham, Wiggins, Winslow, C. H. Young, F. L. Young — 92.

Those who voted in the negative were: Messrs. Ahearn, Baldwin, Blauvelt, Burkan, Byrne, Dahm, Donnelly, Donovan, Dooling, Eppig, Foley, Frank, Haffen, Harowitz, Mann, F. Martin, Newburger, Potter, Richards, Ryan, J. G. Saxe, Sheehan, Shipman, Slevin, A. E. Smith, Unger Wagner, Ward, C. A. Webber, R. E. Webber, Weed, J. J. White — 32.

The President — Upon the motion to agree with the report, the Ayes are 92 and the Nays are 32, and the motion is carried.

The President — The Secretary will make the announcements.

[The Chair directed the Stenographer to include in the Record the Act which accompanied the communications from the Secretary of State's Office, which were a part of yesterday's proceedings.]

LAWS OF NEW YORK.—BY AUTHORITY.

CHAP. 668.

AN ACT in relation to the notice, distribution and publication of amendments to the constitution submitted by the constitutional convention to the people for approval at the general election of nineteen hundred and fifteen.

Became a law May 22, 1915, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The secretary of state shall include in his notice of the general election to be held in November, nineteen hundred and fifteen, a copy of the text of every amendment to the constitution proposed by the constitutional convention held in the year nineteen hundred and fifteen and submitted by such convention

to the people for approval at such election, setting out all new matter in italics and enclosing in brackets all matter to be eliminated from the existing constitution, and at the bottom of each page shall be appended the words: Explanation — Matter in *italics* is new; matter in brackets [] is old constitution, to be omitted. If a revised constitution be so submitted as a whole it shall be in like manner included in such notice, with the amendments indicated as herein provided. In addition to the text, such notice shall contain an abstract of every proposed amendment concisely stating the purposes and effect thereof prepared by the secretary of state, with the advice of the attorney-general. If a revised constitution be submitted as a whole, such abstract shall be inserted at the end of each section affected. Such amendments, if separately submitted, shall be consecutively numbered. The secretary of state shall also cause to be printed a sufficient number of copies of such notice to comply with the provisions of this act. He shall transmit copies of such notice to the board of elections of each county having a separate board of elections and to the board of elections of the city of New York, and such officers shall distribute an adequate number thereof to the boards of inspectors of election within their respective jurisdictions. The boards of inspectors shall on each day of registration deliver a copy of such notice to each elector applying for registration. In election districts wherein personal registration is not required, after the last day of the registration, the inspectors of election shall deliver to the town clerk all of the printed copies of such notices remaining in their hands, and the town clerk shall within five days after receipt of the same, mail a copy thereof to each registered elector in such town, who has not received such copy from the inspectors. The inspectors of election at the time of making up their registry list shall indicate in a suitable manner the name of each elector to whom they have delivered in person printed copies of such proposed constitutional amendments and abstract.

§ 2. The secretary of state shall also cause the text of a revised constitution submitted as a whole, or of each proposed amendment, with the abstract thereof, in the same form as required by this act for the notice of election, to be published once in each week during the six weeks immediately preceding such general election in two newspapers published in each county representing the two political parties polling the highest number of votes at the last preceding general election, to be designated by the secretary of state, and in such additional newspapers as the secretary of state may determine. Such notice shall appropriately

indicate that such revised constitution or amendments have been proposed by the constitutional convention for submission at such general election.

§ 3. This act shall take effect immediately.

STATE OF NEW YORK, }
OFFICE OF THE SECRETARY OF STATE. } ss.:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

FRANCIS M. HUGO,
Secretary of State.

Mr. Wickersham — I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor will say Aye; contrary No. The motion is agreed to and the Convention stands adjourned until ten o'clock to-morrow morning.

Whereupon, at 6:15 P. M., the Convention adjourned to meet at 10 o'clock A. M., Friday, July 2, 1915.

FRIDAY, JULY 2, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. J. Addison Jones — Let us pray. Almighty God, Our Heavenly Father, Thou hast permitted us to enter through the portals of another day, and to Thee we give our thanks for Thy loving care over us and for Thy manifold mercies unto us. We thank Thee for the fair land in which our lot is cast, and as we approach the day set aside for the commemoration of the founding of this Republic, we would call to grateful remembrance the men who wrought and fought for our liberties. We bless Thee for their courage and endurance; we bless Thee for the sagacious statesmanship of those who fashioned our institutions and shaped our laws. We thank Thee for the blessings with which Thou hast crowned our lengthening history, for the records that are honorable, and for the hopes that are glorious, and for the high place of influence and opportunity which we hold among the nations of the earth. We pray that Thou wilt endue Thy servant, the President of these United States, with the spirit of wisdom and understanding, and bless all who are associated with him in the co-ordinate branches of the Federal

government and all men in places of public authority, privilege and influence. May they render willing obedience unto Thy commands, and loyal service for the people's needs, and grant that our people may grow ever stronger in the fear of the Lord and in the love and practice of that righteousness which exalteth a nation. So may we move forward along the paths of worthy and abiding progress, and to Thee shall be all the praise forever more, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed the Journal will stand approved as printed.

Presentation of memorials and petitions.

Mr. Quigg — Mr. President, imposing upon the spirit of consideration that has prevailed here, I ask unanimous consent for a word of personal explanation — I don't think I can call it a question of personal privilege — if I may, for just a moment.

The President — The Chair hears no objection.

Mr. Quigg — Mr. President, the New York Tribune this morning, a newspaper to which I gave fifteen years of my life — and I suspect the best fifteen years —

Mr. F. L. Young — May I ask that Mr. Quigg speak a little louder?

Mr. Quigg — I guess perhaps the best fifteen years I had — says this that I want to speak about, speaking of reapportionment: "Stripped of all pretense, the demand which Messrs. Brackett, Smith, Quigg and their followers are making for an apportionment now is simply an endeavor to play politics. They want this Convention, overwhelmingly Republican, to make a partisan redistricting of the State, doubtless taking care in doing it of their own particular political desires. They want to inject party politics into this Convention which should be kept free from such issues in order to take no chance of having the apportionment made by the next Legislature which might have a Democratic Assembly. They take this course in spite of the likelihood of a present division in the Convention creating such bitterness there and among the voters that the whole new Constitution might be endangered."

Now, Mr. President, when I came here I did think, and I do think now, that reapportionment is a part of our business, but I was uncertain then, as I am uncertain now, whether we would better do it or not. I can call you as a witness, and Mr. Wickersham too, that I have sought advice on the subject and that my mind is not now concluded whether we would better do it or not. We felt this, that you are not going to be a candidate for a member of the Legislature, nor am I, nor is Mr. Clinton, nor is Mr. Wickersham, and very few of us here want to be candidates for

the Legislature. And I have felt that perhaps our Democratic friends would be more disposed to have this matter of a reapportionment, if there is any reason for one, determined here than in the Legislature where personal as well as party considerations are sure to arise.

Now, Mr. President, I do not want that the newspapers should give the idea that there is any division here among the Republicans or any partisan question here between Republicans and Democrats that was not settled yesterday. With a self-restraint for which I know you were grateful and that I myself admired I did not go into the discussion yesterday; I did not ask you for a recognition, because there are two times when nobody needs to say anything, one is when he is hopelessly beaten, and the other is when even his own mistakes could not defeat him, when he is bound to win anyway. This notion of apportionment is so general in the United States, as so many of the speakers showed yesterday, that it will never be gotten rid of, and I could see no reason why I should inject myself into the discussion. I do it now simply to say that I have not come here in the spirit of partisanship, that I don't know whether a reapportionment in this Convention is wise or not, that I now become inclined to leave it alone, and that I would engage in it only for the sake of the Democratic party and in order to see that it should be fair and just and reasonable, that it should be in the interest as you, Mr. Low, have put it, of minorities. I believe that something of that kind ought to be done, and I suspect that this is the best place to do it, where all of us are freer, either of partisanship or of personal interest, than could be had anywhere else. I thank you.

Mr. Stimson — I ask unanimous consent on a matter in the nature of personal privilege which is also a matter of correction of the Record. Yesterday afternoon, after the first roll call, in which I voted in the negative, I was summoned to the Executive Chamber by the Governor at a rather important conference. In my ignorance of parliamentary procedure, I thought that that first roll call had ended the possibility of a further roll call, and I was therefore absent from the second. In view of the fact that my vote would not change the result, I ask unanimous consent that I may be recorded in the affirmative in the second roll call yesterday.

The President — It is impossible that that should be done, but the statement of the gentleman from New York, Mr. Stimson, will be entered in the Record as an explanation of the fact that he did not vote on the final roll call. The Chair will say that substantially the roll call at which the gentleman voted did determine the question. Strictly, there should have been but one question

put, and anyone was quite justified in assuming that that was the final vote.

Are there any further — Petitions and memorials are still in order.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

The President — Reports of standing committees.

Mr. S. K. Phillips — I submit a report from the Committee on Contingent Expenses.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to the printing as a public document of the memorial of the New York State Federation of Labor, as requested by resolution introduced by Mr. Curran, June 22d, reports in favor of the adoption of the same with the following amendment: Resolved, That the memorial of the New York State Federation of Labor, laid before the Convention by the President on the 15th day of June, be printed as a document.

The President — Are you ready for the question on the resolution? All in favor of the resolution say Aye, contrary No. The resolution is agreed to. Any further reports?

Mr. J. S. Phillips — I offer the following report from the Committee on Library and Information.

The Secretary — By Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Cullinan, June 18, 1915, relative to obtaining certain information from the Superintendent of Public Works, reports in favor of the adoption of said resolution.

The President — Are you ready to act upon the resolution? All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Wickersham, June 18, 1915, relative to the preservation and indexing for future reference all the records and data of the Convention, reports in favor of the adoption of said resolution.

The Secretary — By Mr. Wickersham. Resolved, That with a view to the preservation for future reference and use of the data upon which the Convention and its committees act, the clerks of all the committees of the Convention charged with any part of the work of revision or amendment be and they hereby are directed to preserve all statements of fact, answers to inquiries, printed and written arguments, official communications, petitions, memorials,

and communications from institutions, corporations and voluntary associations coming to their hands.

All of such papers as are not returned to the Secretary of the Convention shall, when the respective committees have no further use therefor, be delivered to the clerk of the Committee on Library and Information.

All of such papers as shall be returned to the Secretary of the Convention shall, when the Convention has no further use therefor, be delivered by the Secretary to the clerk of the Committee on Library and Information. The Committee on Library and Information is instructed to provide for the permanent deposit of all such papers in the State Library or otherwise so that they may continue available for reference.

The President — Are you ready for the question on the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Wickersham — From the Committee on the Judiciary, I offer the following resolution, and I move its adoption.

The Secretary — Resolution recommended by the Judiciary Committee at its meeting of July 1, 1915: Resolved, That 500 copies of the report, together with the general summary statement, presented by the Attorney-General relating to claims against the State, exclusive of the tabulated charts annexed thereto, be printed as a document.

The President — Do you recommend that that go to the Committee on Printing?

Mr. Wickersham — Mr. President, for the information of the members, I would state that, in response to a resolution, which was adopted by the Convention, the Attorney-General furnished the Convention with a report of the claims presented against the State during the last five years. It was a very voluminous report, but the body of the report and one summary statement contains the pith of it all, and it seemed to the Committee on the Judiciary that it would be very useful to the members to have that part of the report printed, excluding the illustrative schedule which accompanied the report. The document, perhaps, might be considered to consist of the body of the report and the one summary.

Mr. President, I ask unanimous consent for the present consideration of the resolution.

The President — Mr. Wickersham asks unanimous consent for the present consideration of the resolution. Is there any objection to the present consideration of the resolution?

Mr. Quigg — How much does it amount to, the report?

Mr. Wickersham — Oh, six or eight printed pages.

The President — Is there any objection to the present consideration of the resolution? Without objection the resolution is before the Convention. Are you ready for the question? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Parsons — The Committee on Rules reports the following resolution, with the recommendation that it be adopted, and I give notice that it will be called up next Wednesday.

The President — The Secretary will read the resolution reported from the Committee on Rules.

The Secretary — Resolved, That after the 7th day of July, except specially otherwise ordered, the Convention meet at 12 noon on Mondays, and at 10 a. m. on each other day except Sunday.

The President — Are there any further reports of standing committees?

Mr. Quigg — Mr. President, I have no objection to the resolution which has been offered by Mr. Parsons, except that it ought to be adopted now. It is not our fault that we are the only delegates here and if we have got to finish by August 15th, in order to get our work presented to the people properly, other delegates ought to be here, and ought to be here constantly, and that point may arise from now on.

Mr. Deyo — Mr. President, I would like to ask the gentleman how he comes to the conclusion that "it is not our fault that we are the only ones here?"

The President — Are there any further reports of standing or select committees?

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The President — No order upon the calendar being moved, is there any further business before the Convention? The Secretary will make announcements.

Mr. J. L. O'Brian — I ask unanimous consent to call up this matter. Mr. Wood offered a resolution which was referred to the Committee on Rules but which was not considered by that Committee, that the stenographers be excused to-morrow, Monday and Tuesday. I suppose that unless there is some one here now who will wish the services of some of the stenographers, it is quite unnecessary that they remain and I would therefore move that they be excused for those days, unless there is objection.

The President — Is there objection to the consideration of that motion?

Mr. Berri — How about the clerks? I think all employees should be included; it is a holiday.

The President — The question is, is there objection to the consideration of the motion? The Chair hears none. The motion by Mr. J. L. O'Brian for the excusing of the stenographers of the Convention for Saturday, Monday and Tuesday, without loss of pay, is before the Convention for action. Mr. Berri wishes to move an amendment?

Mr. Berri — I would move, Sir, that all the employees of the Convention be given the same vacation, or same privilege.

The President — The question is upon the motion as amended, to include all the employees of the Convention. Are you ready for the question?

Mr. J. L. O'Brian — I am wondering whether we ought to do exactly that, whether some discretion ought not to be left in the officers of the Convention, and I would therefore suggest to Mr. Berri that he amend it to read that the officers of the Convention be authorized to excuse the employees of the Convention.

Mr. Berri — I accept that.

Mr. Wickersham — In their discretion.

Mr. Berri — In their discretion.

The President — As the motion now stands, it is that the stenographers be excused for the three days designated and that the officers of the Convention be authorized, in their discretion, to excuse any of the other employees? Are you ready for the question?

The President — All in favor of the motion as amended will say Aye, contrary No. The motion is agreed to.

Mr. Wickersham — I move that we adjourn.

Mr. Wickersham moves that the Convention do now adjourn. All in favor will say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 12 o'clock noon, next Wednesday.

Whereupon, at 10:28 a. m., the Convention adjourned to meet at 12 o'clock noon, Wednesday, July 7, 1915.

WEDNESDAY, JULY 7, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Edwin Lewis.

The Rev. Mr. Edwin Lewis — Let us all pray. Almighty God, Our Heavenly Father, we invoke Thy blessing upon the deliberations of this Convention for to-day. We pray for every member of this body: First, that he may seek to incorporate in his personal character the highest qualities of real Christian manhood, and we pray further, Our Father, that every man may seek, in his work as a member of this body, the public good, and that through his personal character and through his work as a public servant, he may promote Thy glory in the extension upon the earth of Thy kingdom. And we ask all this for Our Redeemer's sake, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal stands approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

Mr. Whipple — I ask the indulgence of the Convention for one moment, just long enough to state that I have caused to be placed upon the desk of each member of this body the latest publication of the New York State Forestry Association, of which I happen to be president, and I trust that they will not be thrown into the waste basket, but will be read.

The President — The Chair lays before the Convention a communication from the Comptroller of the State, in response to a resolution of the Convention, introduced by Mr. Kirby, which will be referred to the Committee on Library and Information.

Any further communications from the Governor and other State officers?

Notices, motions and resolutions?

The Secretary will call the roll of districts.

Mr. J. G. Saxe — I would like to ask unanimous consent to introduce a Proposed Amendment which is germane to two amendments which are now before the Committee on the Governor and Other State Officers. The other two amendments are over twenty-five pages in length, and since those amendments were introduced, we have been at work on them and we have now cut them down to five pages.

The President — Is there objection?

Mr. Barnes — I object, Mr. President.

Mr. J. G. Saxe — Mr. President, I would like to point out to the delegate from Albany that this is merely a revision. I did

not want to amend the big bills because the Committee is now working on them. This is merely an alternative proposition and runs along the lines of the big bills now before the Committee, and we have been working on this for the last month. It is a very exceptional situation, and I would ask the favor.

Mr. Barnes — Mr. President, I simply wish to follow out my notice which I gave some time ago. The bill which you have can be reported from some Committee just the same as if introduced.

Mr. J. G. Saxe — They want something to work on. This is a big proposition before them on administrative departments, and it is something the delegates ought to have before them in printed form. It is germane to the amendments; it is not something new.

Mr. Barnes — Mr. President, I withdraw my objection.

The President — Without objection the amendment will be received. The Secretary will read it.

The Secretary — By Mr. J. G. Saxe: Proposed Amendment to the Constitution.

Second reading — To amend Section 1 of Article V of the Constitution, relating to State officers, so as to provide for the classification and enumeration of the departments and division of State government.

The President — The Committee on the Governor and Other State Officers.

Mr. J. G. Saxe — Mr. President, I also move to discharge the Committee on Suffrage from further consideration of Amendment No. 4, and that it be amended and recommitted.

The President — If no objection, that order will be made.

Mr. Barnes — I should like to move to amend Introductory No. 573, Print No. 588, as on this slip, and that it be recommitted to the Committee on Legislative Powers.

The President — Without objection that order will be made.

Mr. R. B. Smith — Mr. President, I move to discharge the Committee on Suffrage from further consideration of Print No. 213, Introductory No. 212, for amendment, reprint and recommitment.

The President — Without objection that order will be made.

The President — Reports of standing committees.

Are there any reports of standing committees?

Mr. Barnes — Mr. President, I should like to offer a report from the Committee on Legislative Powers.

The Secretary — Mr. Barnes, for the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. R. B. Smith, Print No. 699, Introductory No. 290, entitled "A Proposed Constitutional Amendment: To amend Section 10 of Article III of the Constitution, in relation to the

powers of each House of the Legislature," reports in favor of the passage of the same without amendment.

The President — The question is upon agreeing with the report of the Committee with the effect of sending it into general orders. Those in favor will say Aye. Those opposed No. It is agreed to, and the report will go to general orders.

Mr. Parsons — The Committee on Rules, at the request of the chairman of the Committee on Conservation, offers the following resolution, and recommends its adoption.

The Secretary — Resolved, That this Convention accept as of July 7, 1915, the resignation of E. H. Hall, as clerk of the Committee on Conservation of Natural Resources, which resignation is dated that day, and that F. F. Moon be employed by this Convention as clerk to the said Committee on Conservation of Natural Resources, effective July 8, 1915, at a compensation of \$10 per day.

Mr. Parsons — I move its adoption.

The President — Is there any objection to the present consideration of the resolution? All in favor will say Aye, contrary No. The resolution is agreed to.

Mr. J. S. Phillips — Mr. President, a report of the Committee on Library and Information.

The Secretary — Mr. J. S. Phillips, from the Committee on Library and Information, to which was referred the resolution introduced by Mr. Reeves, relative to obtaining certain information from the Secretary of State, reports in favor of said resolution.

The Secretary — By Mr. Reeves: Resolved, That the Secretary of State be and he hereby is directed to transmit to this Convention, as soon as may conveniently be done, the number of indictments for murder in the first and second degrees found by grand juries of the various counties of this State for the past five years, up to January 1, 1915, and the number of convictions of each degree had upon such indictments, including the pleas of murder in the second degree.

The President — Are you ready for the question upon the resolution? All in favor say Aye, contrary No. The resolution is agreed to. The Secretary will report the other resolution.

The Secretary — Mr. J. S. Phillips, for the Committee on Library and Information, to which was referred the resolution introduced by Mr. Bayes, June 24, 1915, relative to obtaining certain information from the Secretary of State, reports in favor of the adoption of said resolution.

The Secretary — By Mr. Bayes: Resolved, That each of the commissioners of public records in the counties of New York and

Kings be requested to furnish this Convention, with all convenient speed, the following information relative to the organization, work and expense of his office:

First. The number of employees in his office.

Second. The salary paid to each of such employees, and the total amount of salaries paid.

Third. The total expense of his office per year.

Fourth. The nature and amount of the work thus far done, and how it has progressed from year to year during the continuance of the office.

Fifth. The nature and amount of the work yet to be done, especially with reference to the reindexing of the records and putting them into permanent form.

The President — Is the Convention ready for the question on the adoption of the resolution? All in favor will say Aye, contrary No. The resolution is agreed to. Are there any further reports of standing committees?

Mr. Parsons — Mr. President, I call up the resolution reported by the Committee on Rules on last Friday, regarding the dates and hours of meeting, and I ask that it be read and move its adoption. The resolution will be found on pages 292 of the Journal and 677 of the Record.

The Secretary — Resolved, That after the 7th day of July, except as specially otherwise ordered, the Convention meet at 12 noon on Monday and at 10 a. m. on each other day except Sunday.

Mr. Wickersham — Mr. President, I move to amend that resolution so as to read that the Convention shall meet at 2:30 p. m. on Mondays and at 10 a. m. on every other day except Sunday.

Mr. Parsons — I accept the amendment.

Mr. A. E. Smith — At 2:30 in the afternoon on Monday? I fail to see where we gain anything by that. Monday night is the reasonable time to meet if you are going to meet on Monday. That compels delegates to leave New York on the Empire Monday morning and thus lose a day.

Mr. Wickersham — Mr. President, my proposed amendment was to meet the convenience of delegates coming from New York who could leave at 10:30 instead of 8:30, and of delegates from the western part of the State who could leave Buffalo at 7:45 and be here in time, the purpose being to have an effective session of the Convention on Monday afternoon and for the present to have Monday evening for committee meetings. I suppose the time is almost at hand when we shall have to meet on Monday morning and have sessions both Monday morning and Monday afternoon, perhaps have three sessions a day, as soon as the work is sufficiently

advanced, in order that we may get through the task that we have before us within the appointed time.

Mr. A. E. Smith — Mr. President, I would simply like to give the members of the Convention what has been the uniform experience in the Legislature. Monday night is really one of the best working sessions of the Legislature. When the men come here for a night's session their minds cannot be disturbed by the business of the State around in the different offices, calls on the telephone from different State departments. They come prepared to sit between 8:30 and 12 o'clock on Monday night. Both the Senate and the Assembly have been able to transact more business than they could in a like period during the daytime on any other day of the week. I do not believe that we are yet at the position in the work of the Convention that Monday night is required for meetings of committees. Three days in the week will come very close to meeting the requirements so far as those committee meetings are concerned, and half-past 8 on Monday night is a very convenient hour for everybody and I think you will find that you will not have so many men here at 2:30 on Monday afternoon where you are reasonably certain of a full attendance if you make it Monday night. Speaking for myself, it makes very little difference, probably none at all, but I do know that the experience of the Legislature has been that Monday night is the best time and it has been so fixed and been held to for as many years back as anybody can remember.

Mr. Quigg — Mr. President, most of us here are working people, living to-day on the wages of yesterday, except when we are anticipating those of to-morrow, and we do need a moment of attention of our business. Now, of course, having accepted this commission, it is our duty to stand by it, but still it does not mean that that cannot be made consistent with a moment of attention to business. There is no use trying to do any business at this time of year on Saturday, and very little use of trying to do any particular business on Friday. We would better be here those days, but if we can have Monday mornings until 3 or 4 o'clock in the afternoon, to give some attention to our business, we can get along. I earnestly favor Mr. A. E. Smith's suggestion and wish very much that it could be put in the form of an amendment that we could vote on, because it does seem to me that we ought to have a minute to pay attention to something. We cannot do it on Sunday.

Now if you pass this resolution as Mr. Parsons and Mr. Wickersham have presented it, then the whole seven days are taken away from any thought to one's personal business. That is not fair to individual members, and it is not fair to their affairs and their

clients'. Now, Mr. President, I hope the thing may go over and come back to us in a way that will enable us to have Monday mornings at our offices and get here for the session on Monday night.

Now if the committees need to meet, think of all the nights on which we can meet! There is a strong protest in the newspapers against the too great hurrying of the Convention, and if the Convention has any business to do, it ought not to be too greatly hurried. We have five days in the week and the night of the sixth and that ought to be enough. It is as much of a strain as any of our minds can carry. When we come to take these individual amendments and consider them, I say that working five days in the week and the night of another day is as much as any man can do intelligently. I hope therefore that Mr. A. E. Smith's suggestion will meet the approval of the leaders of the Convention and that they will let us have Monday morning for a little consideration of private business.

Mr. Clinton — I do not know that Mr. A. E. Smith's suggestion has taken the form of an amendment, but I would like to say that I agree with him entirely. The amendment to the resolution of the Rules Committee was made, as I understand it, for the accommodation of those delegates who come from New York city. It entirely ignores the accommodation of those who come from the western part of the State. With meetings of the Convention on Tuesday, Wednesday, Thursday, Friday and Saturday, those of us who have to go to the western part of the State would like at least to have Monday morning in which to do some work. We can leave on the Empire State, most of us, and be here in time for an evening session, and if it be in order I move that further meetings of this Convention, commencing next week — I believe that is the original resolution, Mr. Wickersham?

Mr. Wickersham — The amendment which was accepted by Mr. Parsons was 2:30 on Mondays.

Mr. Clinton — Then I move as an amendment that the meetings of this Convention, commencing next week, be held at half-past 8 o'clock in the evening on Mondays and at 10 o'clock in the morning on the remaining days of the week, excluding Sunday of course.

Mr. F. L. Young — I believe, Mr. President, that Mr. Clinton has stated the idea of a very large majority of this Convention, and for that reason I rise to second his motion and to say I know a great many men in this Convention who, if prevented from having a few hours in their offices on Monday mornings, will be subjected to very great inconvenience.

Mr. Wiggins — This motion, I hope will not prevail, and I do not think it should prevail in the condition in which the calendar is now presented to this Convention. I fully agree with what Mr.

Quigg and the other gentlemen have said about Monday. All of them seem to have neglected Saturday. Now there are only six amendments on this calendar, and so far as I can see, there is no reason why those amendments should not be taken up and perhaps disposed of this week. When there is any business to do I am willing to come back, as I know all the other delegates are, and attend to the doing of that business. But until the delegates can be shown that there is some business for them to attend to, I do not think they should be asked to support this report of the Rules Committee. Now I am on three committees in this Convention and we are not ready to do any business so far as presenting bills to the Convention is concerned — at least, if they are, they have arrived at a conclusion since Thursday when we had the last meetings of the committees. I talked with the chairman of one of the committees which has before it, I understand, some hundred or so amendments. They are not ready. When the members of this Convention are told that there is sufficient business for them to occupy their time during the entire week, I think the Chair will hear no protest from any of the members against coming here and doing the work of this Convention, but until that time does arrive I do not think that the members of the Convention ought to be asked to support an amendment to the rules which is going to obligate them to come here every day in the week and I propose, as a further amendment, that there shall be added to the resolution the words "except Saturday and Sunday."

Mr. Sheehan — The Committee on Rules for several days has been giving serious thought to this question. The Committee has met on three different occasions with reference to this particular subject-matter, and this morning after General Wickersham had pointed out the views of many of the members from upstate and from the city of New York, it was decided to recommend the rule that we meet at 2:30 in the afternoon, which would permit the delegates from New York city and the delegates from upstate to arrive here in time to participate in the meeting of this body on Monday afternoon. Mr. Wiggins put his finger a moment ago on the weakness of the situation in this Convention when he said our calendar shows that we have but five or six propositions before us. That is the reason for this resolution by the Committee on Rules. It is not to get this body at work, it is to compel the committees to go to work, and unless we meet here every day in the week we will have no committee reports that will justify this Convention in sitting daily as it should. An examination of the records of twenty years ago will disclose the fact that at this time, or at the same approximate time, the Convention of 1894 was sitting three times a day, and its calendar was filled with bills that had been reported by the several committees. That situation does not

exist now, unfortunately, and that is the condition that we are trying to bring about by the adoption of this resolution.

Mr. Wickersham — Mr. Quigg has said that this Convention was rushing things. A few days ago he suggested that we ought to adjourn because we were not doing anything. Now the fact is that with a greater amount of more careful work in committees a greater number of hearings have been given to all sorts of people who are interested in the work of this Convention and who had suggestions to make to it than, so far as I can discover, has ever been done by any Convention before, and the work of the committees up to this time has been the work of reception. The work of formulation is now beginning and it is most important that it should be brought to a close as speedily as possible, and the various measures gotten before this body. It has been the experience, I think every one will agree with me, up to the present time, that the moment the Convention adjourns, a large number of the delegates go away, and that the only way in which we can have full meetings of the Committees is by holding the Convention here.

I made the suggestion to the Rules Committee, of which I am not a member, to modify the proposed amendment to the rules which was brought in, and which called for a meeting Monday at 12 o'clock so as to meet in the afternoon for the accommodation primarily of delegates from the western part of the State and in response to suggestions made by them that they could not get here in time for the morning meeting unless they left home the night before.

We have, Mr. President, to digest and dispose of that volume of proposals and to finish our work certainly by the end of the month of August and this is the 7th day of July, and I think the sooner we dedicate ourselves to that work and arrange our private affairs so that they will not interfere with it, the more chance there will be for our getting through with what we have undertaken to do and I sincerely hope that Mr. Clinton's resolution will not prevail, much as I would like to oblige him personally and other members, but the fact is that any suggestion which is made or which can be made will be inconvenient to some. The question is, how can we best dispose of the work which this Convention has got to do, and I think the best thing we can do is to meet here on Mondays at half-past 2, have our Convention meeting, and devote the evening to committee work until the work before the Convention becomes so voluminous that we have to sit in the evening and dispose of it in Convention.

Mr. A. E. Smith — I do not wish to have the Convention believe that I am arguing for half-past 8 on Monday night solely to suit the convenience of the members so far as their business may be

concerned, but I still maintain, as I did a few moments ago, that you can do more work, that you can get further towards finishing the consideration of that file of proposals, by meeting on Monday night and by having no calendar on Tuesday, or a very small calendar.

Now, what does it mean half-past 2? Half-past 2 to half-past 4 or 5 or 6 o'clock, when it will be dinner time — there will be very little done on Monday afternoon. Men that will be away over Sunday will not be back in time to get the 10:30. The best trains from all parts of the State, the fastest trains, are the ones that arrive here in Albany, the Empire from the West, and the South-western Limited coming from New York, getting all the men here in Albany around 7, 7:30 or a quarter to 8. From half-past 8 until half-past 12 on Monday night, in the cool, you can do more work than you can in twice that number of hours in the daytime. That has been the experience here for years. Everybody knows that that was the sole reason for fixing half-past 8 of a Monday night for a meeting of the Legislature and that was the sole reason for fixing the rules of the Assembly so that resolutions should be under discussion on Monday night. You get a better house, you get a better attendance; men come here after a hard day and they are ready to sit in the chairs and finish the business. There is no place for them to go. There is nothing else for them to do.

Suppose the session does reach into 12 or 1 o'clock in the morning? That won't hurt us so much, and then by fixing Tuesday's calendar, so you can go on with the meetings of the committees by 12 o'clock, you have six full hours, reaching 6 o'clock on Tuesday, to dispose of committee business.

I am simply urging that because it is my experience. It is the experience of men who have served in the Legislature, that it is the best way to get the work done.

Mr. Stimson — I think that Mr. A. E. Smith's argument fails to take into consideration the very important difference that exists between the work that has got to be done by the committees of this body and by the committees of the Legislature, in an ordinary Legislature. I think you will agree with what Mr. Sheehan has said as to the importance of this resolution as bearing upon committee work.

For the past several weeks it has been practically impossible for the members of the Convention to attend to all their committee meetings, because these meetings were grouped and crowded into the center of the week. We now come to the time when the most important and the most critical work has got to be done by the committees; work which is more important and more critical than almost anything else that this Convention can do.

The simple issue that confronts us is whether that work is going to be done by rump committees, crowded for time, or whether it is going to be done after proper consideration, as it should be, in view of the importance of a Constitutional Convention.

I do not think it is a fair or proper analogy to compare it with the ordinary work done by the committees of a Legislature, under similar circumstances. I sincerely hope the resolution will be passed.

Mr. Leggett — I have heard quite a little talk here by the gentlemen who have spoken about accommodating the gentlemen of the Convention, that is, those from the city of New York, and the western part of the State, but I haven't heard any one say anything about how this will be of any help or how it will accommodate the member from Allegany. It means, to me, staying here seven days in the week, and I don't care whether you make it 2:30 or 12, because there is no way I can get here that won't keep me traveling all the time.

Of course, my particular and personal convenience is not to be considered as against that of the Convention, but it seems to me it has not been made apparent to any member of the Convention why it is particularly necessary that this Convention should be sitting here Mondays and Saturdays.

As has been said, we have had a calendar of six numbers, and not one of them has had more than partial discussion, and no one seems desirous to discuss those any farther or to take up the discussion of any others; and, as has been said, the work of the committees is somewhat behind, but that does not necessarily imply that all the members of the Convention have got to be here six days. I know of no effort that has been made to get any committee to sit any later than Thursday. If there is any committee rushed in its work, why not have it sit Fridays and Saturdays?

It has not been made clear to me why the whole Convention has got to be here, and, furthermore, we have never utilized the evenings for sessions. Why not utilize them for the four days we are here, and then we will take up Mondays and Saturdays, later, so that the poor little member from Allegany county can go home over Sunday?

Mr. Tanner — I believe there is perfect willingness on the part of the members of this Convention to spend all the time here that is necessary. I think that Mr. Sheehan is right, that in some way the committees should be made to produce more results, but the reason those committees are not producing results, Mr. President, is that our calendar has been arranged with such exquisite indefiniteness that we can never tell when we can hold committee meetings.

We have got thirty odd committees here, and those committees should meet with a full membership, and the members of those committees must know when they are allowed to sit for the next week, and when they can begin to sit. Every member of the Convention, practically, is a member of two or more committees; and it seems to me that Mr. Clinton's amendment would permit the members from the western part of the State to get here on Monday night, and we could hold a long session then. If it is necessary to sit Saturdays, let us do it.

But if we can for the coming week couple this arrangement with an arrangement by which we could adjourn at 12 or 1 o'clock, leaving the committee chairmen to arrange with each other when we could hold our committee sessions, I would be willing to guarantee by the end of the week that we would have a calendar here of general orders that would keep us here as long as is necessary; and I think we should couple this amendment with some such provision as that, that inasmuch as we only have a short calendar, four or five Proposed Amendments, we should give up the greater part of our time for the next week for committee sessions, and that the time when we can begin the sessions be definitely fixed by this resolution.

Mr. Latson — It seems to me that everything which has been said and everything which has been suggested has proceeded from one common purpose, namely, to expedite our work and to husband our time. The difference seems to be with reference to the best method of accomplishing that purpose.

The attention of the Convention, I think, should be drawn very emphatically and noticeably not only to the condition of our calendar, but also to the reason for that condition. Time spent by our committees has been spent almost exclusively in public hearings. The executive sessions of the committees have not been numerous.

Most of these committees contemplate executive sessions from this time on. It is to be expected that before this week ends the calendar will be very much larger, because of that change in the character of the work which the committees are now undertaking, and it would seem that we could act, Mr. President, very much more intelligently upon this entire question when the work of this week shall have been laid before us; and, therefore, I move you, Mr. President, that this entire question be laid upon the table, and that it may be taken up next week.

The President — The question is upon the motion by Mr. Latson, to lay the resolution upon the table.

Mr. Parsons — That is not debatable.

The President — That is not debatable. The Chair is a little in doubt as to whether Mr. Latson intended to make that a motion to lay on the table, or a motion to postpone until next week.

Mr. Latson — I appreciate the correction of the Chair, and I will make my motion more definite, by making it a motion to postpone until next week the further consideration of this resolution.

Mr. Brackett — Mr. President, the gentleman should fix a day.

Mr. Latson — Until next Tuesday at 12 o'clock. My purpose in making the motion in that form, Mr. President, is that we shall then have before us the result of the work of the committees in executive session this week, the calendar will be noticeably larger, and we can act more intelligently with reference to the mapping out of the work of this Convention; and I therefore move the further consideration of this resolution be laid over until next Tuesday, at the session, at 12 o'clock.

The President — The motion to postpone till next Tuesday is debatable.

Mr. Vanderlyn — As one of the delegates who has thus far had very little to say upon the floor of this Convention, I would like to say that I do not think it is the time, or the number of days which we take, but it is the work we do when we are here that is important.

I believe during the period we have been here had we conserved our time, it would have been very easy for the gentlemen of this Convention, many of them who have important business interests to have at least one day each week to devote to their personal business affairs.

Now, I know that there are gentlemen in this Convention, who have important personal business interests, and while I would not say that the interests of any gentleman should interfere with his work in this Convention, I do say that there are a number of us, who have thus far said very little upon the floor of this Convention and who have been compelled to sit here for nearly a day and listen to a discussion as to the kind of water that shall be used by the delegates in this Convention.

I was present here when some of those who now wish to take six days each week were absent and I believe that it is only proper and right that the gentlemen of this Convention who came here and who take the necessary time from important business interests should be able to complete their work without unnecessary delay. The men who have important business interests are the men who are needed in this Convention.

I am only expressing the views of one delegate, who has sat patiently and listened to the reiteration of the same thing, and

who has heard the repetition of that said by former speakers, when I say that I believe that if we work diligently while we are here we can do in four or five days more than we can do in six days if we occupy the time of this Convention as it has been occupied.

Mr. J. G. Saxe — We have spent forty-five minutes in an attempt to determine how to save time; now the motion is made to put it over until next Tuesday and start all over again. We ought to be able to solve this after forty-five minutes' talk, and we all want to save time and do our work just as expeditiously as possible.

I agree with Mr. Wickersham and Mr. Sheehan, but, on the other hand, I agree with Mr. A. E. Smith, that if we have a legislative session or a business session on Monday night, during the hot season, and then give up Tuesday and Wednesday and Thursday to committee meetings, I think we will be able to accomplish something, and I hope this motion will not prevail.

Mr. Low — I hope the motion adjourning the settling of this question will not prevail. The Committee on Cities last week held two evening meetings and one afternoon meeting. The other two committees with which I happen to be connected, Industrial Relations and State Finances, both had to meet on Wednesday afternoon because of the discussions in the Convention, and the long discussion we had on Thursday made it impossible for the Cities Committee to meet in the afternoon, and therefore we were obliged to put over for a week the hearing which was scheduled then, which really put us back one whole week, because instead of having an executive session on Thursday, as we had planned, it must be delayed.

It seems to me that we could go on Monday night and then arrange the calendars on Tuesdays, Wednesdays and Thursdays, so that both the morning and afternoon would be available for committees, and, if necessary, hold evening meetings, so we can dispose of the calendar. I think, by settling the question now, we would be in a better position to proceed. I hope the motion to postpone will not prevail.

Mr. Reeves — I rise to conserve the time of the Convention and move the previous question.

The President — The previous question is the motion to postpone until Tuesday of next week. Mr. Reeves moves the previous question. Shall the main question now be considered? All in favor say Aye, contrary No. The motion is agreed to.

Mr. Wickersham — Mr. President, I rise for information: That is the previous question of Mr. Latson's to postpone?

The President — The Chair understands it to cover the whole

subject. The question is on the motion to postpone. All in favor will say Aye, contrary No. The Noes appear to have it. The Noes have it, and the motion to postpone is lost.

The question now is upon the amendment of Mr. Clinton to strike out "2" and insert "8:30."

The President — Mr. Wiggins' amendment is a separate and independent measure.

Mr. Wiggins — All right. I did not want the Chair to lose sight of the amendment.

Mr. Parsons — I will accept Mr. Wiggins' amendment.

The President — Are you ready for the question?

Mr. Wiggins — To insert "Saturday" in the resolution as on page 292, so that it shall provide that there shall be no meeting on Saturday and Sunday?

Mr. Parsons — That I will not accept; our experience has shown that it would mean that we would not have a sufficient attendance on Friday.

The President — The question is on Mr. Wiggins' amendment striking out Saturdays from the days when there are to be meetings. Those in favor of the amendment will say Aye, contrary No. The Noes appear to have it. The Noes have it. The amendment is lost.

The question is upon the resolution. All in favor say Aye, contrary No.

Mr. Quigg — As agreed to by Mr. Parsons? I do not understand the Chair's question. On the agreement with Mr. Parsons?

The President — As amended the resolution stands at 8:30 on Monday evening. The resolution is agreed to.

Mr. Wickersham — Mr. President, I move that when this Convention adjourns to-day it adjourn as an expression of sympathy with Delegate Dick of the forty-sixth district, on the death of his wife, which took place during the past week.

The President — All in favor of the adoption of the resolution will signify it by rising.

The President — The gentlemen will be seated. The resolution has been unanimously adopted.

Reports of select committees.

Third reading.

Mr. Brackett — May I at this time make a motion that the Committee of the Whole be discharged from further consideration of Print No. 697, General Order No. 5, on page 1 of the last calendar, July 7th, and that the amendment be recommitted to the Committee on Legislative Organization?

The President — Mr. Brackett moves to discharge the Committee of the Whole from further consideration of Print No.

697, on the calendar, for the purpose of amendment and that it be recommitted to the Committee on Legislative Organization. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Special orders.

General orders.

The Secretary will call the calendar.

The Secretary — Print No. 34, General Order No. 1, by Mr. Austin.

Mr. Austin — Mr. President, I do not want it to be understood as the delegate from Allegany appears to understand that I am afraid to move this amendment; but Delegate Wickersham has just suggested to me that they would like to adjourn by 1:30 in order to let some of this Committee work be done, and for that reason, and that reason only, I permit it to go by.

Mr. Schurman — Mr. President, I would move that the Committee of the Whole be discharged from further consideration of General Order No. 6 and that it be recommitted to the Committee on Legislative Organization.

The President — Mr. Schurman moves to discharge the Committee of the Whole from consideration of Print No. 279, General Order No. 6, on the calendar, and that the Proposed Amendment be recommitted to the Committee on Legislative Organization. All in favor say Aye, contrary No.

Mr. M. Saxe — I understood when the question was raised the other day that the Committee of the Whole could not discharge itself, and that a motion to discharge the Committee of the Whole would have to be made in the orders of motions and resolutions.

The President — We are still in Convention.

Mr. M. Saxe — I thought we were on the calendar.

The President — The call of the calendar is the proper time to move that motion. All in favor say Aye, contrary No. The motion is agreed to.

There are not three general orders moved, accordingly the Convention does not go into Committee of the Whole automatically. It can go into Committee of the Whole upon the particular general order which has been moved, upon motion, but not otherwise.

Mr. J. G. Saxe — Mr. President, I do not care to dictate the policy of the Convention. I understand the majority leader does not care to go into Committee of the Whole to-day, so I do not care to make a motion.

The President — Is there any further business before the Convention? The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — Mr. Wickersham moves that the Convention

do now adjourn. All in favor will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock, to-morrow morning.

Whereupon, at 1:02 p. m., the Convention adjourned to meet at 10 o'clock a. m., Thursday, July 8, 1915.

THURSDAY, JULY 8, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, in whom we live and move and have our being, from whom our spirits come, and to whom they must return, we humbly acknowledge our dependence upon Thee, and we praise Thee for Thy manifold mercies and for Thy pardoning grace through all the days of the past, and we pray for Thy gracious guidance in the endeavors and experiences of this day. In loving kindness so direct the deliberations and decisions of this Convention that the work may redound to the lasting good of the people of this commonwealth and to the glory of Thy name. Oh, Thou Father of all comfort, we invoke the consolations of Thy grace in behalf of Thy servant, the member of this Convention, who is passing through the experience of bereavement and sorrow. May he not faint or fall under Thy fatherly chastening, but find in Thee a sure refuge and abundant strength. So teach us all to number our days that we may apply our hearts unto wisdom and develop those qualities of mind and soul which make us effective in the daily duties of life and make us worthy instruments for the working out of Thy will which is the eternal right. Grant these gifts for Thy great Name's sake, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal stands approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication containing a resolution of the common council of the city of Middletown, which will be referred to the Committee on Cities; also from the common council of the city of Tonawanda, which will be referred to the Committee on Cities; also from the common council of the city of Plattsburgh, which will be referred to the same committee; also from the common council of the city of Hudson, which will be referred to the same committee; also from the

common council of the city of Port Jervis, which will be referred to the same committee; also from the common council of the city of Oswego, same reference; also from the common council of the city of Ogdensburg, same reference; also from the common council of the city of Cortland, same reference; also a communication from the Baptist Ministers' Conference of New York and vicinity, which will be referred to the Committee on Education; also from the Murphy Grange, Patrons of Husbandry, Murphy, Oregon, which will be referred to the Judiciary Committee.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Unger — I ask that the Committee on Civil Service be discharged from further consideration of Proposed Amendment, Printed No. 136, and that the same be amended as indicated, reprinted and recommitted.

The President — Is there objection to that order? Without objection that order is made.

Mr. Barnes — Mr. President, I would like to have Proposed Amendment No. 377 amended as indicated, reprinted and recommitted to the Committee on Legislative Powers.

The President — Without objection that order will be made.

The President — Reports of standing committees.

Mr. S. K. Phillips — Mr. President, from the Committee on Contingent Expenses, I present the following report and move the adoption of the resolution contained therein.

The Secretary — By Mr. S. K. Phillips, The Committee on Contingent Expenses reports the following resolution:

Resolved, That Mary E. Cumming, stenographer to the Committee on Contingent Expenses, be given a leave of absence without pay, for three weeks from July 12, 1915, and Emma R. Udell be substituted in her place for said period at the compensation already fixed for that position.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Barnes — Mr. President, the Committee on Legislative Powers makes the following report.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment by Mr. R. B. Smith, Print No. 700, Introductory No. 275, entitled Proposed Constitutional Amendment, to amend Section 17 of Article III of the Constitution, in relation to references in a bill to existing law, reports in favor of the passage of the same without amendment.

The President — Are you ready for the question on the report?

All in favor will say Aye, contrary No. The report is agreed to, and the Proposed Amendment to the Constitution goes to general orders.

The Secretary — Mr. Barnes, for the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. Tanner, Print No. 565, Introductory No. 550, entitled Proposed Constitutional Amendment, to amend Section 19 of Article III of the Constitution, in relation to the passage of private claim bills, reports in favor of the passage of the same, with the following amendment: Page 1, line 5, after the word "thereof" strike out balance of line, and also strike out all of lines 6 to 10 down to and including the bracket before the word "but"; also strike out bracket after the word "but" in line 10.

The President — Is the Convention ready to vote on the report? The question is on agreeing to the report. All in favor of the report say Aye, contrary No. The report is agreed to, and goes to general orders.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. A. E. Smith, No. 505, Introductory No. 493, entitled Proposed Constitutional Amendment, to amend Article III of the Constitution in relation to the power of the Legislature to provide for the assessment of property of a municipal corporation, situated outside of the boundaries of the corporation, reported in favor of the passage of the same, with the following amendment: Page 1, line 5, after the words "property of," strike out the word "a" and insert the word "any". Page 1, strike out all of lines 6 and 7, and insert the following: "Within the boundaries of another municipal corporation, may be reviewed and fixed by designated state authorities."

The President — Is the Convention ready for the question upon agreeing to the report? All in favor of agreeing to the report will say Aye, contrary No. The Ayes have it. The report is agreed to, and the Proposed Amendment goes into general orders.

Mr. Ostrander — That is a bill that ought to go to the Committee on Taxation, and which has never been considered by that Committee at all, and I think it is a bill that ought to have the consideration of that Committee.

I move that it be referred to that Committee for its consideration.

Mr. A. E. Smith — Mr. President, I object.

The President — To what does Mr. Ostrander's remark apply?

Mr. Ostrander — It applies to this amendment, which seems to have been referred to some other committee, in relation to the taxation of municipal properties outside the limits of that municipality.

The President — The Convention has already voted to agree to the report. Any member can move, in the proper order, to discharge the Committee of the Whole, and to recommit.

Mr. Ostrander — I so move, Mr. President.

The President — But this is not the order in which that can be done. That order will be either upon the order of motions and resolutions on the call to-morrow morning, or upon the call of the calendar for general orders. At the present, we are under the order of reports of Committees.

Mr. Brackett — As I understand, this is the report of the Committee on Legislative Powers, relating to the taxation by local officers of city property located outside of the city limits. To illustrate, it relates to the taxation of the property of the city of New York located in Ulster county; the Ashokan Dam and Aqueduct.

As I understand, the Delegate from Saratoga, Judge Ostrander, now moves, this report having come in,— he now moves that it be committed to the Committee on Taxation for its opinion. If that be so, I submit that the motion on the coming in of the report under the order of reports of committees is proper.

The President — The Chair would agree entirely and does agree entirely with the proposition of the gentleman from Saratoga, but the Convention has already voted upon agreeing to the report and sending it to general orders, and that can be reconsidered, if anyone chooses to move a reconsideration.

Mr. Brackett — Well, Judge Ostrander's motion is, in effect, this: That the Committee of the Whole be discharged and that the amendment proposed be committed to the Committee on Taxation.

Now, irrespective of the merits of the amendment, I do think that the delegates in favor of the amendment should permit it to go to the Committee on Taxation, for the purpose of being sure that it properly fits into the scheme of taxation which that committee will undoubtedly report.

Passing entirely the merits in the case, because that is a matter that will involve not a little of debate, but it certainly will make for proper consideration when it does finally come up for debate, that the Committee on Taxation shall have reported whether this block in the scheme of taxation fits in with the general scheme which it proposes to submit.

Mr. A. E. Smith — I submit for the consideration of the Convention the proposition that if that is going to occur to every resolution that is reported here from a committee, why then we had best make our arrangements to be here until some time in October or possibly November. This bill is reported from the

Committee on Powers and Duties of the Legislature; it confers a new power upon the Legislature. It was properly sent to that committee. It took two hours and a half,—exactly two hours and a half—to discuss this bill yesterday, have it amended and report it out of that committee. Now because it happens to refer to taxation, if it has to go back into the Committee on Taxation and we follow that scheme the Senator knows himself that we will never complete our labors.

Mr. Wickersham — Mr. President, I rise to a point of order. There is nothing properly before the House. The Convention acted on the last measure called.

The President — The Chair does not think that the gentleman from New York is right. The Chair has held that a motion to discharge, the Convention having agreed to the report, sends the Proposed Amendment into general orders, that is to say, refers it to the Committee of the Whole. The only course open now to a member who does not wish to have this amendment considered in the Committee of the Whole without further intermediate proceedings, is to move to reconsider the vote by which the committee report was agreed to, or in the proper order of business to move to discharge the Committee of the Whole or to commit to another committee. That order of business, the Chair believes, could be either upon the call of the calendar or upon the order of motions and resolutions. The call of the calendar will probably come within a very short time.

Mr. Ostrander — Mr. President, I move to reconsider the vote by which the report was agreed to. It was practically instantaneous and I think few of the members realized what was being done,—I myself did not—and I move the reconsideration of that vote.

The President — The gentleman from Saratoga, Mr. Ostrander, moves to reconsider the vote upon which the report of the committee was agreed to.

Mr. A. E. Smith — Mr. President, I ask the gentleman from Saratoga not to press that motion; I ask him to withhold this resolution until we get into general orders. I would like to acquaint myself with the resolution. It was amended by the committee. I have no copy of its final print. I will not be insistent about it, I will be reasonable and fairly agreeable. I am in no hurry to pass it this week or maybe next week, but I hardly think it is fair treatment to the committee that spent three hours discussing it to immediately have it sent to another committee before the members of the Convention have had a chance to look at it in its final form. I just want to know so that if it is going down to its death I can have something in my mind to remember it by

in years to come. That is not an unreasonable request for me to make.

Mr. Ostrander — I think, Mr. President, if it passed the committee in such a way that the gentleman from New York is not familiar with it perhaps it would be well to have it referred to another committee.

Mr. A. E. Smith — I want to say, Mr. President, to the gentleman that it received the full consideration of the committee, but he must understand that it has never been printed because it was not reported until 6 o'clock last night.

Mr. F. L. Young — I want some information on this matter before I vote on it or vote on the pending motion. The bill has not been printed in its final form as amended. I understand that the Proposed Amendment under discussion is Introductory No. 493, Print No. 505. I wish the clerk, for the information of the Convention, would read the amendment while we have the printed bill before us, so that we can see exactly what it is before we are required to vote — Printed No. 505, Introductory No. 493.

Mr. Wagner — Will the Delegate yield? May I ask the Delegate whether or not the Committee in reporting the Proposed Amendment amended it, so that the bill which you now refer to is not the bill in its final form?

Mr. F. L. Young — Mr. President, this is the bill that was reported with amendments. Now it was sent to the committee, and I for one,— and I imagine I am like the rest — do not know how it was amended. There was confusion here and I have not the slightest idea what it is now. I want to know before we vote.

Mr. Wagner—Mr. President, that is the protest which I wanted to enter. I want to vote intelligently upon this question. I am unable to do it now unless I have before me the printed amendment. And I would like to also say to the Delegate from Saratoga, Judge Ostrander, that it seems to me a rather unfair procedure, after this amendment has been reported favorably by one committee to refer it to another for consideration. I noticed that when this amendment was introduced it was referred to the Committee on Legislative Powers and also to the Cities Committee and the Committee on Taxation, for their opinions. Now, therefore, the Committee on Taxation has the power, now, under the procedure which we adopted early in the session, to present their views to this body. Now I take it that the only reason Judge Ostrander desires to have this referred to the Committee on Taxation is to get an expression of opinion from that committee. That committee has the power to do that now under the procedure which we have adopted and I quite agree with Delegate Smith, when he says, if we are to proceed upon the theory that every committee which has anything to do with the subject before the Convention

must act upon the amendments, we are going to be here forever, because there are many,—take the Committee on Judiciary and the Committee on Bill of Rights; there are many propositions which ought to be referred to both committees, as a matter of fact, the subject dealing with matters that both committees have under consideration, and yet it is impracticable to submit them to both committees for decision and so we have got to separate them. Now what position would we be in if after the Judiciary Committee made a report Mr. Marshall took the view that the matter had something to do with the Bill of Rights Committee and asked that it be referred to the Committee on Bill of Rights for further consideration and vice versa?

Mr. M. Saxe — Will the gentleman yield? I would like to state for the information of both of the distinguished gentlemen of New York that the Committee on Taxation in the preparation of the tax article which it will shortly present to the Convention, covers this very subject. Now if you act upon this Proposition, No. 505, it will interfere with the article upon taxation which not alone covers this but covers the entire subject as far as the committee thinks the subject of taxation should be covered in the Constitution.

Mr. A. E. Smith — Then, Mr. President, let me make this suggestion to the Committee on Taxation and to the judge from Saratoga; permit this bill to go on the calendar and I will give you my assurance that I will not move it until your tax article is read. If I am satisfied that it is carefully drawn, I will, myself, move to recommit this one.

Mr. M. Saxe — That is entirely satisfactory to me.

Mr. Ostrander — Entirely satisfactory to me.

The President — The motion to recommit is withdrawn.

The Secretary — Mr. Barnes, for the Committee on Legislative Powers, to which was referred the Proposed Amendment introduced by Mr. R. B. Smith, Print No. 294, Introductory No. 291, entitled Proposed Constitutional Amendment, to amend Article III and Section 4 of Article IV of the Constitution, in relation to extraordinary sessions of the Legislature and the Assembly, reports in favor of the passage of the same, with the following amendment: By striking out all after the enacting clause and substituting therefor the following: Article III of the Constitution is hereby amended by inserting therein a new section, to be appropriately numbered, to read as follows: The legislature may, of its own motion, convene to take action in the matter of removal of a judge of the court of appeals or justice of the supreme court. The assembly may, of its own motion, convene for the purposes of impeachment. At a meeting under this section, no subject shall be acted upon except that for which the meeting is herein authorized to be held.

Section 4 of Article IV of the Constitution is hereby amended to read as follows:

The governor shall be commander-in-chief of the military and naval forces of the State. He shall have power to convene the legislature, or the senate, or assembly only, on extraordinary occasions. At an extraordinary session so convened no subject shall be acted upon, except such as the governor may recommend for consideration. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to it as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall receive for his services an annual salary of ten thousand dollars, and there shall be provided for his use a suitable and furnished executive residence.

The President — The question is will the Convention agree to the report? All in favor of agreeing to the report will say Aye, contrary No. The report is agreed to and the proposed amendment goes to general orders.

The Secretary will read the further report.

The Secretary — Mr. Barnes, on behalf of the Committee on Legislative Powers, reports in favor of the passage of the following amendment to Section 13 of Article VI.

By the Committee on Legislative Powers, Proposed Constitutional Amendment to amend Article VI, Section 13, in relation to trial of impeachments.

Second reading — To amend Section 13 of Article VI, in relation to trial of impeachments.

The President — The Committee on Legislative Powers has reported favorably and recommended for passage the proposed amendment to the Constitution which has just been read. The question is, will the Convention agree to the report?

Mr. Quigg — Is it a new proposition, or a report upon a proposition?

Mr. Barnes — Mr. President, it is a new proposition. It appears to be a proposition covering the ground which has already been covered to some extent, and in various ways by proposals referred to the committee.

Mr. Quigg — I suggest that it be referred to the committee and printed and put on our file.

The President — That is, of course, within the authority of the Convention. The Chair thinks that the committee having reported, recommending the passage of this Proposition unless the gentleman calls to the attention of the Chair a circumstance which

should change the procedure — the question is upon agreement to the report.

Mr. Quigg — On that, Mr. President, I make the point of order that it must be referred to the Committee on Legislative Powers. I am not aiming at this particular resolution, this particular amendment, if the Chair please, but I don't know where we are going to get, if we let this policy once be adopted.

Mr. R. B. Smith — I think the amendment proposed by me covering practically the same subject-matter, was referred to the Committee on the Judiciary. I do not care anything about it, that proposition, but I simply suggest that it seems as if the same committee should pass upon, or exercise jurisdiction over, a cognate subject.

The President — The Convention may so order upon motion of any member. Failing any other direction by the Convention, the view the Chair takes regarding these reports is this: When a committee presents a proposed amendment to the Constitution, without a recommendation for its passage, that is to be treated as the introduction of a proposed amendment. It is open to the ordinary course, and it will be referred to the same standing committee with the same authority, after being read twice.

Whenever a committee reports a proposed amendment to the Constitution, recommending its passage, then that proposed amendment must be read twice in order to give the members of the Convention their rights of discussing it upon the second reading, and having been read twice, then having already been passed upon by a standing committee, and in default of any other order by the Convention, the question will be upon agreeing to the report, and the agreement of the Convention will send the proposed amendment into general orders and refer it to the Committee of the Whole.

Mr. Marshall — I move that this Proposed Amendment be referred to the Judiciary Committee.

Mr. Barnes — For the information of the Convention: This amendment was framed yesterday, in order to follow out the procedure of impeachment which was before the Committee on amendment introduced by Mr. Smith of Onondaga. In order that the procedure might be completed, we framed and introduced this amendment.

It seems to me entirely proper that it should go to the Judiciary Committee, but we did not wish to leave the matter in the air by not finishing the work which we had taken up, and if there is no objection, I should like to second the motion of Mr. Marshall.

The President — This amendment is now in the condition of having been read twice. The motion to refer to the Judiciary Committee supersedes the question upon agreeing to the report

from the Committee on Legislative Powers. All in favor of the motion to refer the proposed amendment to the Judiciary Committee will say Aye, contrary No. The motion is agreed to, and the proposed amendment is so referred.

Mr. J. L. O'Brian — I now call up the report of the Committee on Rules, relating to a proposed amendment to Rule No. 32, which relates to the very point that has just been under discussion.

This rule was brought in some days ago, but owing to the absence of those chiefly interested in it, action was deferred. It appears on page 473 of the Record.

The present rule of the Convention, Rule No. 32, contains this language, which, as the members of the Convention will notice, has given rise to considerable misunderstanding, owing to the apparent ambiguity; the sentence is this, it is the second sentence of Rule No. 32: "All proposed constitutional amendments reported shall, if the report be agreed to, be committed to the Committee of the Whole, and immediately printed."

The language, "if the report be agreed to", has given rise to considerable confusion in the minds of members of the Convention. On page 464 of the Record will be found a resolution, introduced by Judge Hale of the Committee on Rules, who stated that he introduced it at the request of Mr. Brackett, namely, "Resolved, That rule 32 be amended by striking out the second sentence"—that is the one I just read—"and inserting in place thereof the following: All proposed constitutional amendments reported favorably shall be committed to the Committee of the Whole and immediately printed, unless otherwise ordered."

The effect of that proposed amendment would be that when a committee reported favorably a proposed constitutional amendment, it would automatically go into general orders, unless the House made a different order at that time, and it would eliminate this question of agreeing,—this question every time of formally agreeing to the report of a Committee.

I may say, in passing, and parenthetically, that the words, "if agreed to", have given rise in the minds of many members to the idea that if they voted to agree to the report of the Committee, it may be committing themselves in favor of the proposed constitutional amendment, which, of course, would not be advisable.

The Committee on Rules have considered this amendment which was offered by Judge Hale, at the request of Mr. Brackett, and have reported on page 473 of the Record, the amendment, with some slight changes in language, but carrying out the purport of the Hale amendment; and the report of the committee is this: "In rule 32, strike out the words 'all proposed constitutional amendments shall, if the report be agreed to, be committed to the

Committee of the Whole and immediately printed', and insert in lieu thereof the words, 'all proposed constitutional amendments reported favorably shall be committed to the Committee of the Whole and immediately printed, unless a different order be made not inconsistent with Rule 34.' "

The change which the committee made in the proposal of Judge Hale and Mr. Brackett was to add the sentence at the very end of the clause, "unless a different order be made not inconsistent with Rule 34," and Rule No. 34 provides: "No proposed constitutional amendment shall be ordered to a third reading until it shall have been considered in Committee of the Whole."

So that the effect of adopting the report of the Committee on Rules will be this, that when a committee reports favorably a proposed constitutional amendment, the House is then in charge of the proposed amendment. If the House takes no action, it at once goes in automatically into the Committee of the Whole, but if the House chooses to take other action, it may at that time make any order it sees fit, except that it may not order then and there the proposed amendment to a third reading for passage.

I move the adoption of the resolution.

The President — Is the Convention ready for the question upon the proposed amendment to the rule? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to, and the rule is amended as indicated.

Any further reports of standing committees?

Reports of select committees?

Third reading.

Unfinished business on general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The Secretary — No. 215, General Order No. 3, by Mr. J. G. Saxe.

Mr. J. G. Saxe — I have moved that amendment several times. Yesterday the Committee on Legislative Powers took up the question of audit in connection with the powers of the Legislature, which is a companion question to my proposition — in a proposition by Mr. Tanner, which the Committee reported on favorably, and his bill on the question of audit will be in general orders at the next session, and I think we had better not take up my proposition in general orders to-day, but I will move it so there will be three bills moved — but I don't think I had better take it up until next week when Mr. Tanner's proposed amendment comes up.

The President — Three Proposed Amendments having been

moved, the Convention will go into Committee of the Whole for their consideration, with Mr. Brackett in the chair.

[Delegate Brackett takes the chair.]

The Chairman — The Convention is now in the Committee of the Whole on the calendar. The Clerk will read a bill.

The Secretary — Print No. 34, General Order No. 1, by Mr. Austin: To amend Article I of the Constitution, by striking therefrom the provisions of Section 13 of said article, relating to leases and grants of agricultural land.

The Chairman — Is the amendment moved?

Mr. Austin — It is.

Mr. Low — Mr. Chairman, when this Proposed Amendment was under consideration last week, Mr. Austin expressed a desire that the delegate from Westchester would explain the objection to it on the part of the agricultural interests of the State.

It may not be known to all of the Convention that I have an interest in agriculture as well as in cities. The fact is so. President Schurman and myself were invited to attend a conference at the Department of Agriculture at which were present not only the Commissioner of Agriculture, but also a large body of his advisers, representing the agricultural educational interests, the agricultural newspapers, the farmers and the State Grange, and I think all branches of the leadership of agriculture in this State.

That first conference appointed a committee to prepare a memorial,—

The Chairman — The Committee will be in order.

Mr. Low (continuing) — to prepare a memorial, or some form of action, to be brought to the attention of this Convention.

After that committee had been appointed, this Proposed Amendment was introduced, and I suggested to Mr. Austin that it would be well for him to communicate with the Commissioner of Agriculture, as there would be, doubtless, a second conference at which would be present the various representatives of all the agricultural interests in the State. Mr. Austin tried to communicate with the Commissioner of Agriculture, but failed.

A second conference was held at the Department of Agriculture to receive the report of the sub-committee appointed at the first conference, and I was also invited to attend that second conference. I then inquired whether the Commissioner of Agriculture had heard from Mr. Austin, and he said no, that they had not been able to get in touch with each other.

I therefore called the attention of those gentlemen who represented, as I said, all the agricultural interests of the State, in all their phases, to this Proposed Amendment. They asked whether the omission of the present clause in the Constitution would do

any injury to agriculture. I replied that, so far as I knew, it would not.

They then asked whether its presence in the Constitution had done any harm. I replied that, so far as I was informed, it had not; that, so far as I had heard, the only motive for omitting it was that it was surplusage, and that, therefore, it was not worth while to keep it in the Constitution.

That statement was followed by some discussion and by reference to the counsel of the Agricultural Department for his opinion, with the result that everyone there unanimously voted against the removal of this clause from the Constitution.

The Convention will remember that a telegram was read last week from Mr. Vary, the President of the State Grange, saying that he adhered to the position that he took at that time, which was the position of all other branches of agriculture in the State.

It seems to me, therefore, Mr. President, that it is a most unwise thing for this Convention to omit a clause as to which no one claims more,—that I ever heard,—than that it is surplusage, from the Constitution, against the unanimous protest of such a body as met before the Commissioner of Agriculture.

I would like to add that upon reflection since, it seems to me that to omit this clause, whether it were followed immediately or not by any practical result,—that to omit it would tend to make easier the system of tenant farming, and I believe with all my heart that that is a system which we ought not to encourage.

I therefore hope that this Proposed Amendment will not be agreed to.

Mr. Barnes — The Committee on Legislative Powers and Limitations reported this Proposed Amendment unanimously for the reason set forth by Mr. Marshall in debating this subject. He refers to Sections 11 and 12 of Article I and then suggests that Mr. Austin should have moved to repeal all of those two sections, to be consistent.

Our Committee held that Section 13 was inconsistent with Sections 11 and 12. Section 12 state "All lands within this state are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners, * * *." Then Section 13 is a limitation upon that absolute ownership developed in Section 12. If you have absolute ownership it would seem natural that you would have power to lease; but the present Constitution limits the power to lease to twelve years. It was to remove this inconsistency in the present Constitution that the committee made this report.

There is an additional reason other than the one of civil rights involved in this matter, that, if the power to lease for more than

twelve years is granted by the people of the State in their Constitution, instead of its being an injury to agriculture we believe it would be of great benefit; that many persons would engage in farming if they could lease farm land for a longer period than twelve years, which is now prohibited. I wish to state these reasons so that the Convention will understand why the committee unanimously recommended this amendment to the present Constitution.

Mr. Cobb — I am opposed to striking out Section 13 of the Bill of Rights because I believe it embodies a policy and a principle that has been and will continue to be of inestimable value to the State. It has been very well said here that the burden is strongly on any one who would strike out or modify an existing provision of the Constitution, to show good reason therefor. If I understand the argument made by the proponent and any subsequent argument in favor of the bill, the only ground for striking out this clause of the Bill of Rights is that it is "junk." In some newspaper the member read that our Constitution was filled with "junk" and he went through those provisions prospecting for junk as a miner would prospect for gold and when his eye fell on this particular provision of the Bill of Rights he felt that it was "junk" and useless and marked it for destruction and beyond that I have heard no positive argument in favor of eliminating it. Now in reference to the ownership of land, you have two qualities, one a system of landlordism which has fastened on almost all of the great countries of the world in the course of time because they had no limitation on the power of leasing. The other is that system by which the occupant of the soil owns the land he tills.

Now I do not think that it is necessary to make any argument in this day and age of the world in favor of the ownership of the soil by the man who occupies it. This clause of the Bill of Rights tends to that end. By way of illustration, the literature of every country is filled with works on the evils of landlordism. Land greed is about as strong a greed as there is and the tenacity with which the vested interests cling to the fee of the soil has been the cause of a great many social troubles and evils as it was — and it is not necessary to go over that again — in the early history of this State.

In the counties of England we all know the land is owned in great tracts by the property owners; it is leased out for indefinite periods, for 99 years, for 41 years, or what not, and the man who actually does the work on the farm never has an opportunity to own the land. In this State, I do not know what the percentage is, but very largely — due perhaps not to this section, but to the

policy which it embodies — the farms are owned by the farmers. All sorts of laws, all sorts of remedies, have been tried in England, Germany, Belgium and Denmark to rid themselves of this system of long tenures of land and get the realty of the country into the position where the small farmer could own his farm. We have avoided this evil with the exception of the period referred to in 1846 by the policy that is embodied here and I believe that it should be continued. I know that within a very few years, in Denmark, for instance, where they were troubled with these long term leases and with perpetuities, the government went to the length of enacting legislation by which farms upwards of 150 acres in extent could be condemned and the title taken from the land and it be sold again in farms of from three to five acres, and in that country where intensive agriculture prevails a farm of three to five acres is ample for the support of a family,— they have gone to that limit to break up this system of long tenures of land.

Now, I have no doubt that this provision could be stricken out and no revolution would occur, no great harm would ensue. Seed time and harvest would succeed each other on the farms as before. I have no doubt that other sections of the Bill of Rights, perhaps the entire bill, could be eliminated and the State would move on at least for many years as before. We are trained in the policy and theory of the Bill of Rights. The very momentum we have received from centuries of its use would carry us along safely; but when a proposition is made to strike out an amendment or a section of the Bill of Rights which embodies a State policy which tends towards the ownership of farms, by the occupants of farms, which tends away from landlordism, which has oppressed the other countries of the world, it seems to me that there should be some more urgent reason than that it appears to be junk.

Now we have got also to consider that no agricultural society, no grange, no landlord, no tenant, no farmer, is asking for relief from this provision, so that, all things considered, it seems to me unwise and a step backward, and a dangerous step to take to put ourselves on record as affirming the long tenure of land.

Mr. Barnes — This provision is an invasion of the right of the owner of a piece of land to lease. It is a limitation upon the right of ownership.

Mr. Cobb — Mr. Barnes, I appreciate that fully, but I am saying that the greed for land, the fact that men cling tenaciously to the fee of land, that in order to retain the title perpetually in their families they will allow middlemen, as they have in this country and in other lands, to take long leases, for 99 years, and sublet to other tenants,— that is a system that is dangerous to the state and is not in conformity with our policy.

Mr. Barnes — That is a question of policy, but you cannot deny that this is a limitation upon rights.

Mr. Cobb — For instance, the accumulation of property and the development of a leisure class and the aggrandizement of soil in that leisure class was perhaps illustrated slightly by the question of the gentleman from Columbia, Mr. Quigg, and that is the very question we have to answer here. He said: "Take my own case; why should not I, if I see a chance to lease for twenty or fifty years, — why should this thing stand in my way?" Now the answer to that question is that the unlimited permission which the striking out of this section would give, of leasing for indefinite periods, for perpetuity, the soil; of building up a system whereby the farmer or hired man could not, as he can to-day, purchase his land by contract, pay annual installments, own the farm and leave it to his family; of building up a system of landlordism and the custom of leasing out lands and buying that leasehold instead of the fee as now, — would be in my opinion starting upon a public policy which we could not afford to pursue.

Of course it has been suggested that this is a limitation in a sense but it is no more a limitation than the limitation upon the suspension of the right of alienation beyond two lives in being. I believe that it is the united sentiment of the publicists of to-day that the ideal toward which all should aim is the ownership of the soil by the farmers, and this clause of the Bill of Rights tends directly to that end. Its elimination would be a step in the opposite direction, a step toward landlordism and the evils that follow in its wake. There are multiplied instances, — for instance, in the Code Napoleon there were abundant provisions to break up the estates in France and to stop the long tenures under lease, so that to-day there are millions of farms in France of five or six acres, and of course we know the independence and the character that it means to the man or the individual when he owns a piece of God's footstool and I doubt if there can be or will be any controversy over the matter of the benefit of this policy which is embodied in this clause, the superiority of this policy over the opposite one of landlordism which the removal of these restrictions would permit.

Mr. Reeves — Mr. Chairman, this restriction on the power of free alienation of real property in New York ought now to be removed from New York's Constitution. It was put there as a mere method of alleviating a very narrow local difficulty. It was put there primarily, if not entirely, as a temporary expedient. It remains there to-day not only as a useless provision in our Constitution but as a very harmful provision. It was said here in debate the other day that feudalism had entirely disappeared from the State of New York before the Revolutionary War. That statement is true generally over this country and for New York gen-

erally, but it does not apply to the so-called manor lands of New York situated particularly in the Hudson and Mohawk valleys. Feudalism held its grip on those lands until the Constitution of 1846 dealt with it. It is true that in 1787 all feudal holdings between subject and subject were stricken out and the patroons of those manor lands and their English brothers who had gotten grants from the British Crown were deprived of their feudal relationship, but the State of New York remained the feudal overlord, taking the place of the King of England, of those manor lands until it was removed by the Revised Statutes of 1830 and various lease provisions that were put into those lands before 1787 remained there as interfering with their proper disposition.

Stephen Van Rensselaer, the most renowned patroon,— Stephen the Third — in 1786, by his brother-in-law, Hamilton, put all over this vast domain that is now practically the county of Albany — Rensselaerwyck — perpetual leases with provisions for personal service to himself, provisions that the property could not be sold or the leases disposed of without the tenant, the holder, the tiller of the soil, paying one-quarter of the purchase price; provisions for rendering certain returns of the farm each year to the patroon; regular rents reserved; various provisions for forfeiture in case little, minute restrictions were violated — those perpetual leases were the things that caused the difficulty culminating in these Constitutional provisions of 1846.

Stephen Van Rensselaer died in 1839 with a great mass of rents unpaid, many of these conditions unfulfilled, and it was his sons, as Mr. Clinton said the other day, who, in attempting to collect the rents, augmented the rent difficulties. Governor Seward in 1840, in his message to the Legislature, referred to these but no — Mr. President and gentlemen, that reference, that difficulty to which he was calling attention was simply these old perpetual leases that had had their origin in feudalism and were still affected by feudal burdens. He said nothing about leases for 21 or 40 or 50 years; simply those perpetual feudal leases. Governor Wright, in 1845, again referred to the difficulty and the strife and the bloodshed that had occurred, but if you study Mr. Lincoln's history of that period, you will find that that refers simply to those perpetual leases. Those were the things and the only things at which these provisions in the Constitution were aimed.

Then came the Convention of 1846 and it put into the Constitution a system found in articles 10, 11, 12 and 14 of the Bill of Rights. All real property in the State was under the primary and ultimate ownership of the State, so that that would have to escheat to it; all feudal tenures were forever abolished; all land within the State was declared to be allodial. That was contained in articles

10, 11 and 12, and then, Mr. Chairman and gentlemen, the Constitution went back to that famous landmark of real property legislation, that Magna Charta of real property interests, the State *quia emptores*, found it traced down through Charles the Second, chapter 24, which Mr. Blackstone has said had more really to do with the liberties of Englishmen than even Magna Charta itself, noted these quarter-sales and eighth sales, fines and like restrictions that these patroons had put in in making these perpetual leases, and that section 14 rang out the liberty note of American property-holders in saying that all fines, quarter-sales, eighth sales and like restrictions on alienation of real property were abolished.

Now, if we take those four sections, they make the system that New York and all other states in this country have always recognized as making entire freedom, relief from feudalism, allodial holdings, and the full, complete recognition of the power to contract by the land owner or the man who wishes to lease from him; while, as a sop to those warring tenants of those manor lands, they put into the Constitution what Mr. Lincoln in his history describes — and you will find it at page 22 of its second volume if you wish to study it,— they put in what he calls the anomalous thirteenth section, dictated by just a few eastern counties that had had trouble with their manor lands, and they made this restriction of twelve years as to leaseholds. Take that thirteenth section away, and the logical American system of freedom, the system for which we have fought, for which our ancestors have fought, the system that goes back to Magna Charta and belongs with it, stands as a whole.

If we were afraid that feudalism would come back, section 11 forbids it to do so. If we were afraid that those long leases would come back I am going to show in a minute that our legislation forbids it to do so. They cannot come back. No feudal tenure, no quarter-sale, no fine, no restriction on free alienation can come back to this State any more than it can to any other State and it was simply because we had those manor lands and that feudalism remained that way for a time after it had disappeared from the rest of the country, that this little section 13 got into our Constitution. This section has not met the favor of the courts. Just as the courts always struggle to unfetter property, just as the statute *de donis* was set aside by them, so they have shown the tendency to get away from this restriction, this un-American restriction, in every way that they can. If your great property owner wants to go into Westchester county and buy his great estate, he can buy it in fee simple. He can take a life lease of it and that has been held notwithstanding this section 13.

We all understand that a lease for life is longer than one for

any term of years and yet our Court of Appeals has said he may take a life lease; and, further, they have said he may take a life lease and pay his yearly rental for it. He may deal with that property in every possible way except that the farmer who has money enough to make the very best improvement on the land, who wants to establish, for example, a magnificent dairy farm, who cannot buy the land, but is cut down to this picayune little lease of 12 years and instead of being able to do what his brother in New York city can do, get a lease for 21 years with the privilege of renewal, he must go on crippled in this way because he can only take it for 12 years; and the incentive to do the best farming, put the best improvements there and pay the best rents is taken away from the farmer in New York, except the farmer who has capital enough both to buy the farm and to put on these magnificent improvements. The harm has been done; the harm is being done to-day. Your granger goes to his lawyer and says: "Does it do any harm?" and if he gets an answer such as Delegate Low gave, "I don't know as it does any harm," of course he says you need not take it out. But, gentlemen, when you look at the history of this thing, put in simply as a temporary expedient, and then see it standing in the way of the man who wants to put in good capital and make fine improvements, who wants to put his 200 or 300 cows on that farm, and make the best stables, and make the best equipment, and make that farm conform to all of the sanitary laws which our State requires to-day, and yet has not capital enough to buy the farm — we are standing in that man's way and we are standing in it simply by worshipping a fetich, being afraid of feudalism, the last ghost of which was laid over three-quarters of a century ago. Feudalism with its burdens could not come back if it would, because of these other provisions, and feudalism never would come back to American land-holding if it could. It is entirely out of harmony. The kind of landlordism they have in Ireland and elsewhere in Europe can never come to this country; and even if it did come, our Legislature can take care of it, and has taken care of it.

Now let me ask you why it is that we cannot go to New York city and get a lease of more than twenty-one years from Trinity Church or Columbia University or the Rhinelander estate? We know in practice that we cannot do it. Why? Because Section VIII of our Tax Law makes the rentals on a leasehold of over twenty-one years subject to taxation against the landlord personally in the district where the land is situated.

In 1846 these suffering tenants went not only to the Constitutional Convention but they went to the Legislature; they asked for three things; they said, abolish distress for rent; give us this

restriction of a twelve-year lease and enable us to dispute our landlord's title. The Legislature granted two of those things. Distress for rent was wiped out and not the twelve-year restriction. I was mistaken there, but the taxation of the landlord's income, his rentals on leases for over 21 years was fixed by Chapter 327 of that year and it remains as Section 8 of our Tax Law to-day, so that if we take out this "junk" from our Constitution, we not only take it out but we take out a thing that stands in the way of free men dealing freely with their free property in a free State according to the rule of *quia emptores*, which is recognized as law in this State; and we take out something which practically as a business proposition is standing in the way of the best development of our farms to-day and we leave the law such that the absolute incentive to every land-owner is not to make any lease for more than 21 years. We put our rural owners and our urban owners on the same plane. I know men say, and it will be answered, "But you cannot trust the Legislature to keep that 21-year limitation there." I think we can. It has been there since 1846, and, gentlemen, if you are afraid of the Legislature on that account, then change your Constitution, but do not continue to hold your farmer down to the little lease of only twelve years. That does not, under modern improvements, and the way in which farming is carried on to-day, and under the stringent laws of sanitary requirements, does not incite the best use of capital and the best improvement of the farm in this State. We were told by the delegate from Watertown, Mr. E. N. Smith, the other day, that the tide of farmer-tenants that for so many years has been going west has begun to flow back, that it is tending to come back to the Eastern States. I believe he is right. We all hope that he is right in that statement. When that tide of farmer-tenants comes back it will find all of New England, it will find New Jersey, it will find Pennsylvania and all the Atlantic seaboard without any such restriction as this temporary local affair put as an anomaly into our Constitution, it will find freedom there to go and get such laws as it wants. It needs in New York, in order to direct it here, the same power it has in New York city as to urban property; it needs ability to get a lease of 21 years, with one or more renewals. If that tide is coming back, we are going to stand in its way in New York; we are going to have great vacant farms. We are going to see that the urban population increases faster and the rural population decreases even faster than it does to-day. We want the very best incentive we can give to these coming-back farmers to take our lands and put the best improvements they will on them. We can give them the best incentive by standing squarely by our

American principle and our American principle is freedom of contract. We can give them that incentive with a 21-year lease, but to keep this picayune little 12-year restriction is to keep these people from doing the best they can and the best they will with New York's real property and so I say that the history of this little section, the condition of our farm land in New York to-day, the needs of the future, call for the taking out of this section from the Constitution.

We are lawyers, we can study and understand these things and work under them, and we do it, but the granger, the farmer, does not understand. We cannot act on what he is asking and looking to us for, unless we understand the history and the development and the tendency of a restriction like this, and therefore I say let us take it out and let our farmers be free to make their contracts and to go on and develop as they naturally would under our American freedom.

Mr. Fancher — Mr. Chairman, I shall be very brief in what I have to say, and I think I am entitled to be heard because I come from one of the counties in our State where this question has been seriously brought up. It is a question which arose and which finally culminated in the rent wars, and I feel, sir, that I would not be doing my duty by the people of the thirty-ninth district, and especially that portion of our people engaged in agricultural pursuits, if I did not oppose the elimination of this portion of our Constitution.

Why, we are told here, Mr. Chairman, that it is obsolete. Is that true? Is some great principle which has been embodied in our Constitution and has become a part and portion of it, is it obsolete, although not at the present time being used? Why, you might as well take away the battle flags, the torn and tattered battle flags of the Republic and destroy them, because the time is past when they are longer useful. I believe, Mr. Chairman, that we should not put down the guideboard simply because the road has been well traveled and is well known. Let us keep up these index fingers that point the way to safety and keep the feet of future generations from wandering in the danger paths of the road. The gentleman, the very able gentleman who has just preceded me, made, it seems to me, a very strong argument why this provision should not be eliminated. He said that it prevented the wealthy man from getting control. It is true. It is absolutely true. It prevents the man from the city of New York or any other place, with large wealth, from coming here and usurping and getting hold of the agricultural lands of our country. Why, Mr. Chairman, the man who owns even a humble home in the State of New York or any other State, that man is a better

citizen, a truer man, he has a greater interest in the welfare of the country, than that man who simply rents from a landlord, from a man who is superior to him. I trust, Mr. Chairman, that this safeguard, this danger signal, will not be removed from the Constitution.

Mr. Leggett — Mr. Chairman, when this subject was up for discussion last week, you will recall that immediately after the speech of the mover, the learned Chairman of the Committee on Bill of Rights assumed the leadership of the argument toward the retention of this section. I looked earnestly to that gentleman for some clear, definite reason why this section was important. You will recall that he spoke with earnestness — I might almost say with vehemence — and at some slight length, but through the length of his discourse, I looked in vain for any definite or clear reason why the retention of this section should be had. I looked in vain for any illustration of any good thing that this section had ever accomplished, and what I say about his remarks I shall have to repeat concerning those of every gentleman who has followed him. There has been a good deal said about the danger of the accumulation of landed property in single hands. None of us is inclined to minimize that danger. None of us, I believe, would be in favor of that. But how is it prevented by this clause? What is there to hinder anybody who wants to buy farm lands from going and buying them? I have not been informed how this clause prevents it in any way, shape or manner. That the accumulation of farm lands in any one hand may be a very dangerous thing — I am not sure but that it may be; but give us the answer. How does this clause prevent it? And do not tell us something about what occurred in England, or something about what occurred in Ireland, or about what occurred in the State of New York in the Hudson Valley here, under laws that are entirely different as regards the tenure of the lands themselves. Give us some reason why this clause tends to prevent the evils that occurred at that time, and in those localities.

I listened with a good deal of curiosity this morning when the eminent gentleman from Westchester was telling us of the conference of agriculturists and the resolutions they adopted unanimously, and the discussions they had. I shall have to disclaim any great acquaintance with agriculture. I come from a county of people that till the soil and plow the land and milk cows. They do not call themselves agriculturists. In my office it has been my privilege in the last thirty years to see and to participate in the drawing of a great many leases of farm lands and I cannot now recall that either party, either landlord or tenant, ever asked to have the lease drawn for even 10 years or 12 years. The

longest term that I can ever recall that I was ever called upon to draw a lease of farm lands for, was five years, and never that except in only a few cases. In my county of Allegany, a very large percentage of the land is farmed under leases — I haven't any means at hand for any more than making a guess at the proportion, but it would not be far from one-half of it, I think, and of those leases I venture to say that 9 out of every 10 are drawn for 1 year, and of the others, 10 per cent., half of those, yes, three-quarters are limited to 3 years.

Now, just one word more: There was a good deal of indignation exhibited at the fact that the gentleman moving this proposal termed this particular section "junk." If our friends who are so anxious and earnest to have it retained cannot give us any better, more definite, clearer reasons why it should be retained than they have given, I should go further than he has and I would call it "bunk."

Mr. Byrne — The only thing I shall remember about this discussion, I think, in the years to come, will be the most interesting and instructive speech of the other gentleman from Kings county. I am glad he is from Kings. If I understand anything about what the change in the rules regarding attendance meant yesterday, it was that this Convention was to go into high speed. I am afraid we are going to go back, if we spend the time we have spent on this proposition on every proposition that comes up. It reminds me very much of the candidate for justice in Kentucky who, in announcing his candidacy to the people, said: "No one asked me to make this race, and I don't know that anyone gives a darn whether I do or not." Mr. Austin, in moving this amendment, said that no one in particular had asked him to move this; no one in particular had asked him to introduce it, and he was very frank and I assume he was sincere when he said he did not give a rap whether it passed or not. Well, gentlemen, if we are going to take hours in discussing a matter which no one outside the halls of this Convention has asked for, and as to which the mover of the resolution does not care a rap whether it passes or not, I agree with Mr. Smith, we would better arrange for our Thanksgiving dinners.

Mr. Reeves says the farmer and the granger does not know what he wants and we must act for him. Oh, no; oh, no. The farmer and the granger does know what he wants and, whether we think he is right or wrong, he has a right to get it.

The great trouble is, gentlemen, that at times we forget just what we are doing here. We are not here to sit down and think what we can say upon some subject in this Constitution. Do not you realize we are mostly lawyers here? We could talk a week on

which foot a fly puts forward first. I do not care what subject comes up, we could talk for hours. But I say to you we would better not waste time on subjects which the people outside are not asking for and which the movers do not care a rap whether they pass or not. Let us end this thing, gentlemen. We have heard interesting and instructive discourses on it, but I think it is about time it was closed in this body.

Mr. Dunmore — I concur with what the gentleman has said about the time occupied in discussing this question, and it was a few words on that subject I wished to say when I tried to get the floor before.

The members of this Convention are so well known in the localities from which they come that it is not necessary for everybody to make a speech on every question that comes up in order that it may be printed and sent to their homes to demonstrate to their constituents what great orators they are.

We have discussed this question the second day and if, as the gentleman has just said, we are going to consume as much time over questions of this sort, we will be in session for the next five years, more or less.

I think this Convention is just as well prepared to vote upon this question now as it will be if we talked about it for a week. I therefore move the previous question.

Mr. Wickersham — Mr. Chairman, I rise to a point of order, that the previous question is not in order.

The Chairman — The point of order is well taken, and however much fault may be found in the length of time that may be taken, there is no method of control in the Committee of the Whole, except the good sense and self-restraint of the members.

Mr. E. N. Smith — Mr. Chairman and Gentlemen of the Committee: I am delighted to learn that the people from the territory from which I come do not know what they want, but are dependent upon the dawyers of this Convention to tell them what they ought to have. I do not agree with that proposition. I am not going to repeat what I have said or even supplement what I have said in reference to the dangers in adopting this proposal, but I am simply going to read again what is the voice of the people whose ox is being gored, on this subject, that telegram from the Master of the State Grange of the State of New York: "We are very much opposed to the constitutional amendment which provides for striking out from the Constitution Section 13, Article I, regarding leasing of agricultural lands, believing it should stand without amendment whatsoever."

I am glad to listen to so many people from the city of New York who are now interested in agriculture; but I represent a

territory which depends upon agriculture, and I feel that this debate has proceeded long enough, and I therefore move that the Committee report adversely on the proposition from the Committee on Legislative Powers.

The Chairman — The motion is out of order. The motion pending is the motion of the mover of the bill, that the Committee report favorably, and it brings the same result,— it brings precisely the same result in the reverse order that the delegate from Jefferson wishes to reach by his motion.

Mr. E. N. Smith — I am not particular as to the form in which the matter is taken up.

Mr. Clinton — Mr. Chairman, I do not wish to say very much on this subject, except to state that there seems to be a misapprehension, both in the explanation of the chairman of the Committee of the reasons why this amendment was reported favorably, and a misapprehension on the part of members or delegates, who argue for the abolition of Section 13.

When the State government was organized, the common law of England applied, and it was at least a question as to whether there could be such a thing in this country as allodial tenure. The result was the abolition of feudal tenures. The reason why feudal tenures were abolished was that the theory of the system vested the entire fee, the ultimate fee in the sovereign, he parceling out,— that is the theory of it,—the domains of those who held directly under him, and they parceling it out to others, until the lowest grade of knight service was reached, when they parceled out the land to tenants who held by personal service.

The Chairman — Will the delegate suspend for a moment? The Chair recognizes the necessity of the members passing around the room, and that it is necessary both for their business and their comfort, but they should do so with as little confusion and noise as possible, and the Sergeant-at-Arms will see to it that the lobby does not become so uproarious as to interfere with the proper conduct of the business of the Committee.

Mr. Clinton — Those who tilled the soil and had holdings under what I may call the ultimate subordinate holders of land under the feudal system were no better than serfs; they were called villeins. They were bound by personal service. In most instances they were tied to the land, and this was brought about by the feudal theory and by the tenures, and the only tenures which they could get.

Having in view the necessity, if our institutions were to be maintained, of relying upon those who tilled the soil,— that is what they had in view — as good citizens, feudal tenures were abolished.

The ultimate sovereignty or ownership was declared to be in the State by Section 10, which relates to escheats; by Section 11 feudal tenures were abolished; by Section 12, titles to real estate were declared to be allodial, and that was a return to the old Anglo-Saxon system which created franklins or freemen.

But when that was done, there remained one more thing. It was found that in consonance with the feudal system, a series of estates had been built up in the State of New York by manorial grants, which were perpetual in their nature and had enabled the patroons by long leases and by the reservation of personal services, to put in legal form a system which was identical in principle and effect with the feudal system, and, therefore, the learned Chairman of that committee is mistaken if, in stating the reason why his committee reported this favorably he agreed with that reason is asserting that Section 13 which abolished what I may call the quasi-feudal system, was in conflict with Section 12, which creates allodial tenures. It was directly in line with the principles involved in Sections 11 and 12. It is a continuance of them; and it was intended to prevent the tying up by long leases of large bodies of land which might be owned in fee by particular individuals.

Now let us see what is the result of striking that out. The very theory of our government, which applied to agricultural lands, is in favor of the ownership in small parcels, the removal of the incentive for acquiring large tracts of land, to be let out, to be improved by the tenants, and who shall have no ownership.

It is the striking from the Constitution of the very clause which completes the theory embodied in it, that the tenure of lands shall be allodial, and shall not directly or indirectly be made of the same nature as the tenures, the feudal tenures which have been abolished.

The argument is based, or the report is based upon the question, upon the commercial question of the development by the introduction of large amounts of capital of our agricultural lands. What does it mean? If twelve-year leases are not sufficient for their purposes, it means that they want to invest large amounts of capital, purchase large amounts of land and issue long leases. That is what it means.

There is no use of trying to disguise it. I am not asserting that there are particular interests that want that, but that is the theory of those who want to strike this out.

Mr. Chairman, there is no proposition here to adjust that clause of the Constitution to any existing conditions which make it proper to change its terms. The proposition is to strike it out bodily.

Now, let me call your attention to one other thing. Section 13 not only provides that there shall be no lease of agricultural lands for longer than twelve years, upon which shall be reserved any rent; that is not all it provides; it provides also that no such leases shall be made that reserve any services, any personal service. That is the way it reads, and that, at least, should be retained in the Constitution.

When we find capital, which is strong enough now, taking hold of our agricultural lands; when we find capital owning large quantities of agricultural lands and leasing them with the power to reserve not only rent but personal service, we utterly destroy the theory that our forefathers adopted in preparing this Constitution, and the only theory upon which we can maintain a free and untrammelled agricultural population.

The question here is not one of money. It is not one of allowing certain persons to invest in leases, long leases, so that they may improve the land. It is a question of good citizenship.

Mr. Quigg — Mr. Clinton has very well said that there is no other proposition here than the one to strike out the whole section, and I want to make another proposition and tell why.

Now, Mr. Chairman, I am a farmer, and along with Mr. Low and Judge Clearwater, I am raising eggs at forty cents a dozen and selling them at twenty-three; hay at thirty-five dollars a ton and selling it for seventeen; and I know what it is to be a farmer.

Mr. Deyo — You mean you know what it is to be an agriculturalist.

Mr. Quigg — Yes, sir.

Mr. Deyo — That is the distinction.

Mr. Quigg — Now, sir, when I got my farm, which I did not get for the purposes of farming, but for the purpose of a home in the country, I got into farming largely through the institution that Dr. Schurman presides over at Cornell, and I do not regret it, either. If the farmers of this State knew what Cornell University was doing, they would avail themselves of it quick, as they, of course, do in a great many cases.

I began to raise eggs, poultry and potatoes, as the instructors at Cornell told me that my place was adapted for, and selling those eggs in New York and selling this poultry to the half dozen big firms that are there that supply the great hotels and do an enormous business in eggs and in poultry.

Mr. D. Nicoll — May I ask you to enlighten us as to the number of acres that you own?

Mr. Quigg — Not unless I had in you a prospective tenant.

The Chairman — Let us be reminded that this is no place for the display of wit.

Mr. Quigg — That comes most graciously from the Chair.

Mr. Chairman, when I talked with these people about how they could get all their supplies, they all said that they did not get them; that they could sell twice as many of eggs and poultry all the time as they could get if they knew they were fresh.

Then I asked them why they did not go into the business. Well, they said, it took an investment of from seventy-five thousand to a hundred and fifty thousand dollars to make a plant that was worth anything in the poultry and egg business; that under modern methods they had to have the incubators; they had to have acreage from which they could grow green things, and they had to have root cellars, and brooders, and chicken houses, and that involved an investment of anywhere from seventy-five to a hundred and fifty thousand dollars.

They said they did not want to buy the land because they did not want to be saddled with it; they said they would be very glad to lease it if they could lease it for a term that would enable them to pay the rent, to get the interest on their investment and to get their original investment back before the end of the term, but that they could not do it under this twelve-year clause.

Now, these are not men who want land and who want to have their farms, their corporations, or even their own estates, saddled with lands along these valleys that may be useful for summer resorts, that may be useful for their particular kind of agriculture, when they want to engage in it, or while they want to engage in it, but are not permanently useful to them.

Mr. Marshall — What is the prevailing market price for farm land in Columbia county, per acre?

Mr. Quigg — Well, I should say that you could get all you want from ten to twelve dollars an acre, and I assume that the investment in the land is the smallest part of their investment. Still, it is an investment. Still, it is so much additional cost, and they do not want the land.

Mr. Marshall — Then, these men who are ready to make an investment of a hundred and fifty thousand dollars or more will hesitate to invest ten dollars an acre in Columbia county.

Mr. Quigg — Yes, sir. They do not want the land, and it is a perfectly reasonable proposition. They do not want the land. They want to get their money back, and I say to you, Mr. Marshall, if you will just listen to me —

Mr. Marshall — I am.

Mr. Quigg — Because I am talking to you, and I am more afraid of you than I am of the ghost of Samuel J. Tilden, which you brought up here the other day,— I say that I could have brought a good deal of money into these valleys along the Hudson and along the Harlem, if this term were not so closely limited.

Now, Mr. Marshall probably knows that in the Convention of 1867, this term was extended to twenty years. That Convention — that Constitution was lost, except for its judiciary article, I believe, but it was in there and it showed that that Convention had some appreciation of the fact that this term ought to be somewhat extended. Now, Mr. Chairman, I would like to ask the state of the parliamentary situation in order that I may make a motion with respect to the term.

The Chairman — The debate is proceeding upon the motion of the gentleman from Greene, Mr. Austin, to advance the bill and report it to the Convention.

Mr. Quigg — I ask, if it is proper, to move a substitute —

The Chairman — An amendment to the bill?

Mr. Quigg — A substitute, — Yes, in place of the amendment, I wish to propose a substitute.

The Chairman — It is entirely proper that the amendment should be amended with any substitute that the Convention wishes to adopt.

Mr. Quigg — Mr. Chairman, the purpose of my substitute — What is this section?

Mr. Barnes — Article I, Section 13.

Mr. Quigg — Mr. Chairman, I move as a substitute that Article I of the Constitution is hereby amended to read as follows: No lease or grant of agricultural land for a longer period than eighteen years hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

Now, to Mr. Marshall, on that proposition, I want to suggest this. There can be no harm in this proposition. It cannot do anybody any injury. It may be true, as I believe it is, that those of us who are interested up here in these valleys, could bring New York money up here to the great profit of the farmer. Part of their lands could be leased; they could remain in possession of the balance of them; they could make more money with the lease and the balance than they are now making out of the whole, and what applies here in butter and milk and eggs and poultry must apply along the Mohawk in the matter of fruit, where the Mohawk has the advantage of the Erie canal — where the Mohawk counties have that advantage, and where they could get to the same market almost as quickly.

I believe that if this term were extended, — I know it would be greatly in the interest of the farmers that I represent.

The Chairman — The question recurs on the motion of the delegate from Columbia, Mr. Quigg, to substitute the amendment which he has stated.

Mr. Reeves — Would not it be better to make that twenty-one years?

Mr. Quigg — Mr. Chairman, Mr. Reeves suggests that I make it twenty-one years — for what reason?

Mr. Reeves — Because when there is a lease of over twenty-one year, the tax law taxes the rental on the landlord and thereby puts the incentive throughout the State to restrict the lease to twenty-one years. That is the reason why Trinity Church leases for twenty-one years, and that is the reason you find it so throughout the State.

Mr. Quigg — I accept that suggestion, and I will make it twenty-one years instead of eighteen.

The Chairman — The delegate asks to make it twenty-one years instead of eighteen or twelve. Strictly speaking, the delegate should put his resolution in writing and pass it to the desk, but inasmuch as the only change is the substitution of twenty-one for twelve in the present provision, the Chair will put the motion. Are you ready for the question?

Mr. Ostrander — I would like to suggest to the gentlemen who are proposing these great fowl farms and dairy farms, that I think the history of all such institutions is that they go broke in about five years, and I think the twelve-year limitation at the present is entirely sufficient.

I have never heard of any great dairy farm that ever undertook to produce milk and to sell their own production which was a success financially. The investigation that was conducted by the officials of the Agricultural Department of this State very minutely and very carefully, under the direction of the Agricultural Department and the Attorney-General a few years ago, found that the milk which was produced in New York State cost the farmer a large part of a cent a quart more than he got for it.

The experience of so illustrious a man as Governor Morton demonstrated to him that the great dairy farm produced milk which was more expensive than champagne, and I think, perhaps, I am entirely safe in saying that no great chicken farm and no great dairy farm ever lasted over five years, and therefore I think that the present limitation is entirely sufficient and that it would not be necessary to go into the alteration of the fundamental law in order to accommodate any gentleman who wishes to try that game out.

Mr. E. N. Smith — I hope that this amendment will not prevail. I have known from the country no demand on the part of farmers that the wealthy people of the city of New York come up and take long-term leases of their property; I am a little bit fearful of the Greeks bearing gifts, and I therefore hope that this amendment will not prevail.

Mr. Lindsay — I shall not take up much time of this Convention, but listening to the argument to-day, I am impressed with

one fact, and that is that there does not seem to be any use for the change except to make more easy the forcing of tenancy upon the people of this State. Now, that is the effect of wiping out that section of the Constitution.

Now, Mr. Chairman, this is a day of combination, and just as soon as it is shown to be profitable, there are going to be combinations of capital, just as there are combinations of capital to control other matters. Now, let me ask the gentleman from New York, or any of the gentlemen who have spoken in favor of this measure, what is to prevent an aggregation of capital gaining control of an entire county? Absolutely nothing. If they have the capital, they can own the county, and the county can then be inhabited by a lot of tenants.

Mr. Leggett — What is to hinder it at present?

Mr. Lindsay — I was talking with a man who retired from the law business, who desires to organize a company to gain control of a large amount of land for celery purposes, and the only reason he cannot get that combination is that he cannot get tenants with leases long enough to gain that control. That is a concrete illustration. If to-day they could get control of those lands, they could form a corporation for the control of the entire celery lands in that part of the country; but they cannot do it because they cannot run the business in that way.

Mr. Reeves — Was that to make a lease for farming purposes?

Mr. Lindsay — Why certainly it is for farming purposes. No question about it.

The Chairman — Raising celery. The Chair will rule that is for farming purposes.

Mr. Lindsay — Now, that is the situation. If they cannot get control of a county, they can of a township or a school district, and there is no question if it is profitable, men will go into business, and will do that very thing. Now we have a provision here that prevents it. I never knew an ordinary farmer who wanted to lease his neighbor to exceed five years, and there would not be any reason for these long leases except for the reason that you have long leases in the city and so that people who have capital invested in land need pay no attention to it, and have tenants rendering them service or paying them money thus continuing a landed estate to their successors. I hope neither the amendment nor the amendment to the amendment will prevail.

The Chairman — The question is on the amendment or the substitute offered by the gentleman from Columbia, Mr. Quigg, amending the provision with the result that no leasing shall be granted for a period longer than twenty-one years instead of twelve

years, as in the existing provision. You who favor the amendment will signify by saying Aye. You who oppose the amendment will signify by saying No. The Noes have it. The question is upon the motion of the delegate from Greene, Mr. Austin, reporting the amendment favorably to the Convention. You who favor such favorable report will signify by saying Aye, opposed No. The Noes have it, and the bill will be reported to the Convention adversely.

The clerk will read a bill.

The Secretary — Print No. 410, General Order No. 2, by Mr. R. B. Smith.

The Chairman — Is the amendment moved. The amendment is moved. The clerk will read the bill.

The Secretary — To amend Section 28 of Article III of the Constitution, in relation to the granting or allowing of extra compensation by legislative bodies or auditing boards, bodies or officers.

Mr. R. B. Smith — Mr. Chairman, I will briefly state the history of this amendment and the process under which it was originally adopted, with a view later of offering a substitute.

This amendment was reported by the Constitutional Commission of 1872 to the Legislature and by the Legislature submitted to the people with certain other amendments. In 1855 the Court of Appeals in the case of Town of Guilford against the Supervisor of Chenango County, 13 N. Y., held that the power of appropriation on the part of the Legislature was unlimited, and it used this language: "Independently of express constitutional restrictions, the Legislature can make appropriations of money whenever the public well-being requires or will be promoted by it; and it is the judge of what is for the public good. * * *"

Governor Hoffman, in his message to that Commission, called attention to the fact that under the Constitution the Legislature could grant gratuities and that, as a result of this decision, the practice had become common of public contractors who have contracts with the State, after a contract was completed and they had lost money, of coming to the Legislature and presenting a bill for the amount lost, and asking the Legislature *pro forma*, to audit it, and then to appropriate the money for them as a gratuity, and he stated that the abuse had become so common that he believed it the duty of the Commission to propose an amendment against it. As a result of that, the Commission reported to the Legislature three Proposed Constitutional Amendments, the first being Section 19 of Article III, which prohibited the Legislature from auditing claims. The second was

Section 28, which is now under discussion, which prohibited the Legislature and common councils of cities from granting or allowing extra compensation to contractors, officers and public servants. The third was Section 10, or that portion of Section 10 of Article VIII, which prohibits municipal corporations from granting or loaning their credit or money to private persons or corporations. In other words, the whole purpose being to prevent bodies having the power of appropriation and officers and bodies having power of audit from granting gratuities.

There seems to be some misapprehension as to the term "compensation." In the case of 171 New York, 263, Mahan against Board of Education, the court defined extra compensation as follows: "Extra compensation is compensation over and above that fixed by contract or law when the services were rendered or the materials were furnished." In other words, it is a gratuity or gift of public funds without valuable consideration to the public.

Now, in 1875, when this section was adopted, the common councils of the cities of the State were both appropriating and auditing bodies. Since that time, as you know, we have divided the power of audit and appropriation in most of the cities of the State, in New York city the power of appropriation now being vested in the Board of Estimate and Apportionment and the Board of Aldermen and the power of audit being vested in the Comptroller. In the cities of the second class the power of appropriation for some purposes is absolutely fixed in the Board of Estimate and Apportionment and is for all purposes subject to the veto power or reduction of the Board of Aldermen, so that the language of this section, in view of the purpose which it was originally intended to accomplish when it was enacted, is now inapplicable and my sole purpose in offering this amendment was to put it in such language as to make it carry out the purpose for which it was originally adopted and for which I believe it should be continued in the Constitution.

After drawing the amendment, after it was reported upon the floor, or placed in General Orders, Judge Rodenbeck called my attention to the fact, that as drawn it would not apply to school districts, and certain quasi-governmental agencies having the power of appropriation and making contract, such as fire districts, water districts, in towns, and said that if we were going to take care of the proposition we ought to clean it up for all time. Now, with that purpose in view, and I feel that the criticism is right except that I hesitated to mutilate the time-honored language, I have drawn a proposed substitute which continues the prohibition against officers and appropriating bodies, and auditing officers of the State and each of its divisions. In talking the matter over with

General Wickersham he suggested that there might be some question as to whether the prohibition should be continued against officers or whether it should be made to apply to the State and its civil divisions and subdivisions. Now, as to that, I have no pride of either language or authorship and I think it is a matter which should be considered by the Convention along those lines and I have in mind to offer a Proposed Amendment which I will ask to have printed upon the calendar, immediately following the title of the bill and I move that when the committee rise it report progress and ask leave to sit again. General Wickersham, I believe, will offer an amendment drawn to accomplish the same purpose, but as applied to the locality, if you please, rather than the officers, and with those before us it seems to me that we can intelligently thresh out the entire proposition. I offer the following amendment.

Mr. Wickersham — Mr. Smith called my attention to this proposition this morning and in going over the amendment to the Constitutional provision it seemed to me that it would be better to preserve the language which is already in the Constitution and to make the prohibition comprehensive by reading "No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor by the State or any county, city, village or other civil division of the State," following in that respect the language of Section 1 of Article XII of the Constitution, which in making it the duty of the Legislature to provide for the organization of cities and other bodies and restricting their powers, uses this very language: "The Legislature may regulate" and so on, "and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State." Therefore in imposing the limitation upon the power to grant extra compensation to any of the persons so named, it seemed to me better to follow the language of the Constitution which describes those branches of the political organization of the State by which such people may be employed. I therefore move to amend Mr. Smith's proposition, so as to read as follows.

The Chairman — The gentleman from New York, Mr. Wickersham, moves to amend the proposition of the delegate from Onondaga, Mr. Smith. The clerk will first read the amendment proposed by the delegate from Onondaga.

Mr. R. B. Smith — Mr. Chairman, before it is read, and for the purpose of getting the definition of either the term "political" or "civil" I struck out the word "political" in my amendment and inserted the word "civil." I will ask the clerk to make this correction: Strike out the word "civil" and restore "political."

The Chairman — Making it a political division of the State. The clerk will now read the amendment proposed by the delegate from Onondaga.

The Secretary — Lines 3 to 8, inclusive, strike out all brackets and matters in italics. In line 3, after “28” insert a bracket and at the end of line 8, insert a bracket. After line 8 insert the following in italics —

The Chairman — Then this becomes the substitute of the bill as it is now upon the file, if I am not mistaken.

The Secretary — “No legislative body or board or auditing body, board or officer of the State or of a political division or subdivision in the State shall grant or allow any extra compensation to any public officer, servant, agent or contractor.”

The Chairman — The clerk will now read the Proposed Amendment of the gentleman from New York, General Wickersham.

The Secretary — “No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor by the State or any county, city, village or other civil division of the State.”

Mr. Wickersham — I move that we now rise and report progress on this particular bill and ask leave to sit again. In the meantime these propositions can be printed.

The Chairman — Does the delegate wish that the amendment shall not be acted upon?

Mr. Wickersham — My suggestion is that the amendment shall not be acted upon until the next meeting.

The Chairman — I think the amendments will fail then, General Wickersham, and will have to be offered anew. It seems to the Chair that the orderly way would perhaps be the adoption of the amendment for the purpose of printing.

Mr. Wickersham — I move that the amendment be adopted for the purpose of printing.

Mr. R. B. Smith — I suggest the procedure which is common in the Assembly where a matter is pending upon the report of a committee, or upon second reading is laid over, that the two Proposed Amendments be printed upon the calendar immediately following the title of the bill — the Proposed Amendment.

The Chairman — The Chair calls the attention of the delegate from Onondaga to the fact that there is no record of any kind in the Journal. There is simply a record of the report made and here the matter will be left with two amendments offered, neither of which has been acted upon, and there will be provision for their printing.

Mr. R. B. Smith — By unanimous consent we can do anything.

The Chairman — Yes, that is true.

Mr. Wickersham — May I make this suggestion? I move that when this committee rises it report to the Convention that it has considered Mr. Smith's motion, that it has considered the two amendments which have been offered, that it asks leave to have the amendments printed and to sit again and consider the subject.

The Chairman — Is there objection? If none, it is so ordered.

Mr. Blauvelt — I doubt very much whether the Proposed Amendments can be printed unless they are adopted as amendments in the Committee of the Whole.

Mr. Wickersham — Mr. Chairman, they can be printed if the Convention so orders and the report contemplates asking the Convention to so order.

Mr. Blauvelt — In my opinion, Mr. Chairman, they will be nothing more nor less than proposed amendments to this bill.

Mr. Wickersham — That is all they are.

Mr. Blauvelt — But I do not believe they can become Proposed Amendments to the Constitution and go on our record.

Mr. Wickersham — They will not.

Mr. Blauvelt — Simply proceedings of the Committee of the Whole.

Mr. Wickersham — That is all I contemplated asking.

The Chairman — By the consent, if thus given, when the Committee next gets into General Orders, the amendments will be there for consideration as printed.

The Chair wishes to call the attention of the Committee, before the motion that the Committee rise shall be put, to the fact that the action of the Committee in defeating — and as even its friends will recognize, defeating decisively — the Proposed Amendment of the gentleman from Greene, in voting in the negative on the motion to advance the bill, the amendment still remains upon the Calendar, and the Chair suggests that the only way to get it from the Calendar is by a motion to strike out the proposing clause, which, being carried, will therefore relieve the Calendar from the present form of the bill.

Mr. Wickersham — Mr. Chairman, I rise to a point of order on that. As I understand the rule, it is the duty of this committee when it rises to report to the Convention its action upon the measure which it has considered. It is not like striking out the enacting clause of a legislative bill. We have had referred to us for consideration a Proposed Constitutional Amendment; we have dealt adversely with it, and it is our duty under the rule to report our action to the Convention.

The Chairman — The only report that can be made in the present condition of the desk is that the Committee declines to recommend the passage of the bill.

Mr. Wickersham — The Committee acted adversely upon the bill and we should so report. There was a precedent a few days ago where that action was taken, Mr. Chairman.

The Chairman — If the Convention shall then concur in the report the Chair will hold that the bill may then not appear longer on the Calendar. Does the delegate from New York renew his motion that we now rise?

Mr. Wickersham — I renew that motion.

Mr. Wagner — May I ask if that is the procedure we shall hereafter adopt, that the Committee of the Whole in refusing to advance a bill to third reading kills that legislation without any other consideration?

The Chairman — If the final action of the committee is negative in declining to advance the bill and recommend its passage and that is concurred in by the Convention.

Mr. Wagner — As I understand it, the report of the Chairman to the Convention will be simply that a motion was made to advance a certain bill and that the Committee of the Whole declined to advance it and recommend it for final passage.

Mr. Wickersham — Mr. Chairman, the motion was somewhat more comprehensive than that. The motion of Mr. Austin, as I recollect, was that the Committee report favorably and recommend its passage; that motion was voted down and that would have to be the report of the chairman of this committee.

Mr. Austin — Mr. Chairman, there need be no worry about the danger of my bringing this matter up again. When the proper time arrives I shall move to strike it from the Calendar, but so far as this particular bill is concerned there need not be any worry about a further debate on it. I am satisfied.

The Chairman — It is the matter of the precedent which should be settled right.

Mr. Wagner — The reason I make that statement is that I did not want to start with a wrong procedure and afterwards have us get into difficulty. I think that those who have studied the rules will agree with me that the defeat of the motion of Delegate Austin does no more than keep the bill in the Committee of the Whole, and we must make some other disposition of it, that is, we must recommend to the Convention some other disposition, in order to get it off the Calendar.

Mr. Wickersham — Mr. Chairman, I then move to strike out the enacting clause of the measure and report accordingly to the Convention.

The Chairman — The motion is then, gentlemen, of the delegate from New York, General Wickersham, that the enacting or

proposing clause of the Proposed Amendment of Mr. Austin, General Order No. 1, shall be stricken out. You who favor that motion will signify by saying Aye, opposed No. The Ayes have it and the enacting clause is stricken out.

The question now recurs upon the motion of the delegate from New York, General Wickersham, that the committee do now rise and make its report to the Convention. Those who favor that will signify by saying Aye, opposed No. The motion is carried. (The President resumed the Chair.)

Mr. Brackett — The Committee of the Whole has had under consideration several bills and begs leave to submit this, its report, in writing.

The Secretary — The Convention resolved itself into a Committee of the Whole and proceeded to the consideration of General Orders, being the Proposed Amendments entitled as follows:

Introductory No. 34, Print No. 34, General Order No. 1, "To amend Article I of the Constitution by striking therefrom the provisions of Section 13 of said article, relating to leases and grants of agricultural land."

After some time spent therein the President resumed the Chair and Mr. Brackett from said committee reported that the committee had stricken out the enacting clause of said bill.

The President — The question is upon agreeing to the report of the Committee of the Whole. Is the Convention ready for the question?

The President — All in favor of agreeing to the report will say Aye, contrary No. The Ayes have it and the report is agreed to.

The further report from the Committee of the Whole.

The Secretary — Printed No. 410, General Order No. 2, by Mr. R. B. Smith, "To amend Section 28 of Article III of the Constitution, in relation to the granting or allowing of extra compensation by legislative bodies or auditing boards, bodies or officers."

The committee reported progress and asked leave to sit again.

The President — The question is upon the granting leave to sit again. All in favor of granting leave will say Aye, contrary No. The Ayes have it and the leave is granted.

Any further business to come before the Convention? The Secretary will make announcements.

Mr. Wickersham — It was understood in the Committee of the Whole, — I think the chairman of the committee has overlooked the fact that the resolution adopted requested that the two amendments which had been offered for consideration, No. 410, Print, the second order on General Orders, introduced by Mr. R. B.

Smith, be printed for the information of the committee having them under consideration. I therefore move that those two amendments be printed as a part of the General Orders for the consideration of the Committee of the Whole.

The President — The Chair understands that. Those are amendments to a Proposed Amendment to the Constitution?

Mr. Wickersham — Which were offered in the Committee of the Whole and were under discussion when the committee arose.

The President — Mr. Wickersham moves that the two amendments offered in the Committee of the Whole to the Proposed Constitutional Amendment under consideration by the committee, being Amendment No. 410, introduced by Mr. R. B. Smith, be printed for the information of the Convention. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Cullinan — Bill No. 695, introduced by Mr. Dunmore, providing for the organization of summer resorts and qualifications of voters at their elections, was referred to the Committee on Suffrage. The latter part of the bill, however, pertains to the organization of civil divisions. I suggest that that part of the bill be sent to the Committee on County, Town and Village Government.

The President — Unanimous consent is asked that the Committee on Suffrage be discharged from consideration of the last part of the Proposed Amendment indicated by Mr. Cullinan and that that part be referred to the Committee on County, Town and Village Government. Is there objection? Without objection, the change of reference is made.

Mr. R. B. Smith — I ask unanimous consent to offer the following resolution and ask that it be referred to the Committee on Contingent Expenses.

The President — The Secretary will read the resolution for the information of the Convention.

The Secretary — By Mr. R. B. Smith: Resolved, That Minnie C. Hullar, telephone operator, be granted a leave of absence with pay on account of illness contracted in the service of the State.

The President — Is there objection to the reception of the resolution and its reference to the Committee on Contingent Expenses? The Chair hears none and the resolution is received and is referred to that committee.

Mr. Wiggins — This morning, when the Committee on Legislative Powers reported an amendment to this Convention, it was suggested that the matter should be referred to the Committee on Taxation for its report and then upon reference to the Proposed Amendment it was found that that course had been followed when the amendment was originally introduced, which suggested to me

that no method had been provided by which a committee to which had been referred a bill for its information or examination—no method had been provided for the procedure to be followed by that committee to which had been referred the bill for its opinion and having that in mind I have drawn a resolution which I desire to offer and ask the Clerk to read.

The President — Mr. Wiggins asks unanimous consent for the introduction of a resolution which the Clerk will read for the information of the Convention.

The Secretary — By Mr. Wiggins: Resolved, That each committee to which a copy of any Proposed Amendment has been referred for its opinion be requested so soon as practicable to transmit its opinion to the committee having original jurisdiction of the amendment, to the end that such opinion shall accompany any report to the Convention on such amendment by the committee having original jurisdiction.

The President — Is there objection to the introduction of the resolution? The Chair hears none. What is Mr. Wiggins' suggestion as to reference?

Mr. Wiggins — I think it should either go to the Committee on Rules or be passed upon by the Convention now. The object of it is quite apparent, to provide some procedure by which the opinion of a committee may be transmitted to the committee having original jurisdiction of the amendment, so as to avoid the complication which arose this morning.

The President — Perhaps the shortest way would be to refer it?

Mr. Wiggins — I have no objection.

The President — Referred to the Committee on Rules.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — The Committee on Rules is requested to meet in the President's room immediately upon adjournment.

Mr. Wickersham moves that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 12:50 p. m., the Convention adjourned, to meet at 10 o'clock a. m. Friday, July 9, 1915.

FRIDAY, JULY 9, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. C. O. S. Kearton.

The Rev. Mr. Kearton — In the Name of the Father, and of the Son and of the Holy Ghost, Amen.

Most gracious God, we humbly beseech Thee, as for the people of these United States in general, so especially we pray for the members of this Convention here assembled in Thy name, that Thou wouldst be pleased to direct and prosper all their consultations to the advancement of Thy Glory and the safety, honor and welfare of Thy people, that all things may be so ordered and governed by their endeavors upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety may be established among us for all generations. These and all other necessities we ask in the name of Jesus Christ, Our Lord.

The grace of our Lord, Jesus Christ, and the love of God, and the fellowship of the Holy Ghost be with you all now and forever more. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Petitions and memorials.

The Chair lays before the Convention a communication in the nature of a memorial from the common council of the city of Fulton which will be referred to the Committee on Cities; also one from the common council of the city of North Tonawanda, same reference.

Are there any other memorials or petitions?

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Phillips — The Committee on Contingent Expenses presents the following report and I move the adoption of the resolution therein contained.

The Secretary — By Mr. S. K. Phillips: The Committee on Contingent Expenses reports the following resolution:

Resolved, That the compensation of Miss Helen F. Dittrich, transferred June 24 from the list of general stenographers to be stenographer to Vice-President O'Brien, be \$5 per day, dating from July first; and

Resolved, That Mrs. Edna Gould be transferred from the list of general stenographers to be stenographer to Vice-President Schurman at a compensation of \$5 per day from July first.

The President — Is there any objection to the present consideration of the resolution? Is the Convention ready for the question? All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to the transfer of Lee V. Gardner, now employed as messenger, to the position of assistant mailing clerk, reports in favor of the adoption of the same with the following amendment:

Resolved, That Lee V. Gardner, now employed as messenger, be transferred to the position of general clerk, at a salary of \$5 per day, in place of Truman C. Bossard, general clerk, resigned, and that he be assigned to duty in the mailing department, from July first.

The President — Is the Convention ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Any further reports of standing committees?

Mr. Brackett — Report from the Committee on Legislative Organization.

The Secretary — Mr. Brackett, from the Committee on Legislative Organization, to which was referred Proposed Amendment introduced by Mr. Leggett, No. 88, Introductory No. 88, entitled "Proposed Constitutional Amendment, to amend Section 1 of Article XIII of the Constitution," relating to official oaths, reported in favor of the passage of the same without amendment.

The President — The question is on the agreement to the report of the committee. All in favor of agreeing to the report say Aye, contrary No. The report is agreed to, and it is referred to the Committee of the Whole.

Mr. J. L. O'Brian — The Committee on Rules submits the following resolution, and I move its adoption.

The Secretary — The Committee on Rules recommends the adoption of the following resolution:

Resolved, That Rule 50, paragraph 1, be amended by inserting at the beginning of said paragraph the words "Except as provided in Rule 56," and by inserting after the word "debate" the following language: "whether reported by a committee, or otherwise introduced;" so that paragraph 1 of said rule as so amended will read as follows:

"Except as provided in Rule 56, all resolutions giving rise to debate, whether reported by a committee, or otherwise introduced, unless they relate to the disposition of business immediately before the Convention, to the business of the day on which they may be offered, or to adjournments or recesses, shall lie over one day

for consideration, after which they may be called up, as of course, under their appropriate order of business."

Mr. O'Brian — The object of this amendment is to provide that all resolutions except those brought in under Rule 56 which relates to Committee on Rules procedure, that all resolutions introduced which give rise to debate shall lie over one day for consideration, whether introduced by a member or introduced by a committee. Members will recall that some weeks ago a question arose as to whether resolutions introduced by a committee should also lie over one day for debate. The object of this amendment to the rules is to cure that ambiguity and to make it clear that all resolutions whether introduced by a committee or introduced by a member shall, if they give rise to debate, lie over one day for consideration.

The President — Is the Convention ready for the question on the resolution? All in favor of the resolution say Aye, contrary No. The Ayes have it and the resolution is agreed to.

Are there any further reports of standing committees?

Mr. Hinman — Mr. President, in behalf of the Committee on Legislative Powers, I make the following report.

The Secretary — Mr. Barnes, for the Committee on Legislative Powers, to which was referred a Proposed Amendment introduced by Mr. Dunmore, Print No. 728, Introductory No. 573, entitled Proposed Constitutional Amendment, to amend Article III of the Constitution, in relation to powers of the Legislature to pass bills and state agencies and officials to adopt regulations, reported in favor of the passage of the same without amendment.

The President — Is the Convention ready for the question upon the agreement to the report? All in favor of agreeing to the report of the committee will say Aye, contrary No. The report is agreed to and the Proposed Amendment to the Constitution is referred to the Committee of the Whole.

The Secretary — Mr. Barnes, for the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. Wickersham, Print No. 640, Introductory No. 624, entitled Proposed Constitutional Amendment, to amend Section 18 of Article III of the Constitution, reported the same for the consideration of the Convention.

The President — Under the change in the rule that was made yesterday, the report of the committee will be referred to the Committee of the Whole, unless some other disposition is made by the Convention.

Mr. Quigg — Mr. President, what is it about?

The President — The question then will be, does the Convention make any other disposition of the proposal?

Mr. Quigg — Mr. President, I ask for the reading of the amendment.

The President — The Secretary will read the amendment.

Mr. Wickersham — If the Clerk will give the number of the Amendment, I can assist Delegate Quigg by handing him a copy of it, which will perhaps save reading the amendment.

The Secretary — Printed No. 640, introductory No. 624.

Mr. Brackett — I suppose that in default of any motion it goes into general orders automatically.

The President — In default of any motion, the Proposed Amendment reported by the committee goes to the Committee of the Whole, and takes its place on the calendar. The reading of the Proposed Amendment has been called for, and the Secretary will read the Proposed Amendment.

The Secretary — Printed No. 640, introductory 624, by Mr. Wickersham.

PROPOSED CONSTITUTIONAL AMENDMENT

To Amend Section 18 of Article III of the Constitution

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Section 18 of Article III of the Constitution is amended so as to read as follows:

Cases in which private and local bills shall not be passed; restrictions as to laws authorizing street railroads.

§ 18. The Legislature shall not pass a private or local bill in any of the following cases:

[Changing the names of persons.

Laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands.

Locating or changing county seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.]

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning or impaneling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing or decreasing fees, percentages or allowances of public officers, during the term for which said officers are elected or appointed.

[Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.]

Granting to any person, association, firm or corporation an exemption from taxation on real or personal property.

[Providing for building bridges and chartering companies for such purposes, except on the Hudson river below Waterford and on the East river or over the waters forming a part of the boundaries of the State.]

The Legislature shall pass general laws providing for the cases [enumerated in this section] *hereinbefore in this section enumerated, except as hereinbefore limited*, for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of that portion of the street or highway upon which it is proposed to construct or operate such railroad be first obtained, but in case the consent of such property owners cannot be obtained, the Appellate Division of the Supreme Court in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated and their determination, affirmed by the court, may be taken in lieu of the consent of the property owners.

No private or local bill for any of the following purposes, to wit: changing the names of persons, laying out, opening, altering, working or discontinuing roads, highways or alleys, or for draining swamps or other low lands; locating or changing county seats; providing for changes of venue in civil or criminal cases; incorporating or amending charters of cities or villages or granting charters of incorporation to individuals; granting to any corporation, association or individual the right to lay down railroad tracks; granting to any private corporation, association or individuals any privilege, immunity or franchise whatever, or providing for building bridges and chartering companies for such purposes; shall be passed by the legislature, unless the same shall have been first presented to the legislature by petition in writing signed by one or more persons actually interested in the measure and setting forth the reasons for its enactment, accompanied by the proposed bill, which petition and proposed bill shall be filed with the secretary of state not less than fifteen days before the beginning of the regular annual session of the legislature and shall be open for public inspection for at least ten secular days prior to its introduction in either house of the legislature, and a copy of such petition and proposed bill shall have been published in the official state paper, and in at least one daily newspaper of general circulation published in the locality affected by

the proposed bill, designated for that purpose by the secretary of state, at least once in each week for two successive weeks before the date of such introduction, nor unless the said bill shall before the third reading thereof have been considered by an appropriate committee of the house in which it shall be introduced at a public hearing, notice of the time and place of which previously shall have been given in at least two newspapers of general circulation designated by the secretary of state as most likely to give notice to persons interested in opposing the said measure, twice a week in two consecutive weeks immediately preceding the date fixed for such hearing. No such bill shall be enacted after the expiration of the first sixty days of the regular session of the legislature. Immediately upon the filing of any such petition and bill a copy thereof shall be delivered by the secretary of state to the attorney-general, whose duty it shall be to examine the same and to attend all hearings thereon and represent the interests of the state as affected thereby. The legislature shall by joint resolution establish rules regulating the introduction, consideration and passage of such bills not inconsistent with the provisions of this section.

Mr. Low — I move that this bill be recommitted to the Committee. On page three of the proposed amendment, among the subjects dealt with is the "incorporating or amending charters of cities or villages," which relates very particularly to the work of the Committee on Cities. That Committee considered this bill last night and although we are in general in favor of the policy of publicity, which is the evident aim of this measure, we nevertheless felt that to adopt this bill at the present time would very seriously embarrass the work of the Committee on Cities in the consideration of what it should report to this Convention on the subject of home rule. It seems to me that it would be embarrassing, to say the least, therefore, to have this measure in general orders before the Committee on Cities can deal with the subject to which it is giving so much consideration, and, therefore, I move that the report be recommitted.

Mr. R. B. Smith — If Mayor Low will consent to change the motion to recommit, because it does not admit of debate, I would make the motion to postpone the consideration of the report indefinitely, which does admit of debate, and then I would move to lay that motion on the table until we have an attendance.

Mr. Low — That is perfectly satisfactory.

The President — The motion to recommit admits of debate, but not upon the merits of the question. The question before the Convention is the motion to recommit to the Committee on Legislative Powers.

Mr. Wickersham — I introduced that measure as a suggestion for the consideration of the committee dealing with the subject.

I understand that the committee to which it was referred has been merely passing on measures referred to it, and reporting them favorably or unfavorably. This particular measure the committee decided to report for the consideration of the Convention, not being prepared to accept it or reject it as it was proposed.

Now, I want to have the measure considered by the committee that is dealing with the subject affected by it, and in connection with the constructive provision which that committee is formulating. I think if the measure is referred to the Committee on Cities, it will receive consideration there as a part of the constructive program which that committee is working upon, and I would like to have it so referred and so considered, rather than merely detached from other subjects of a cognate nature, and made the subject of consideration either by the Committee of the Whole or the Convention; and I therefore move to amend the motion by asking, or moving that the measure be referred to the Committee on Cities for its consideration.

Mr. Low — I should be very glad to accept that amendment.

Mr. Quigg — Mr. President, what is the motion now, as it stands?

The President — The motion as it now stands is to commit the measure to the Committee on Cities.

Mr. Quigg — It has a good many other changes here that I think the Committee on Legislative Powers ought to give us their opinion upon. It proposes that names may be changed, which heretofore has been impossible by special law. It proposes that there shall be some way for making special railroad bills — granting to corporations and individuals the right to lay railroad tracks, which heretofore has been impossible in a special bill.

It provides other things that do not especially relate to the Committee on Cities. There are ways to get privilege and immunity and franchise here, building bridges, chartering companies,— all of which have heretofore been forbidden by special laws.

Mr. Dunmore — This forbids it if you will look at it. Look at line 11.

Mr. Quigg — It says, as I have read it,— I confess I have read it hurriedly, but it seems there is a way of reaching that through the Legislature. I think it ought to go back to the Committee on Legislative Powers as well, and I move that it be referred to the Committee on Legislative Powers.

Mr. Brackett — I trust that our friends will not get all "het up." It is not well. In the absence of the chairman of the Committee on Legislative Powers I do not think I violate any confidence when I say that this bill was reported only for consideration. It is without a recommendation.

The President — That is the report, according to the terms of the report.

Mr. Brackett — The committee thought just this, and it was one of the rare meetings when I was able to be present and therefore I speak in the absence of the chairman,— the consensus of opinion of the committee was against reporting the bill favorably, but it did believe that there were elements in it that should be called to the attention of the body here for discussion if it cared to do so. Whether the discussion comes up on a motion to recommit or whether it comes up on consideration in general orders, is utterly inconsequential, I think, and I hope that our friends whose gorge is rising so at the sight of the bill will permit it to go into General Orders. Nobody is going to try and drag it out in advance of any other report that may be made or any other provision; and if I may be permitted to indulge in the prerogative of the seventh son of a seventh son born with a caul over his face I think I can assure my good brother from Columbia, and from Onondaga too, and my farmer friend from Westchester that I do not believe they need to be much disturbed for there are several of us that have our trusty clubs out for that bill.

Mr. Quigg — Mr. President, in view of the statement of Senator Brackett that the Committee has considered it and has declined to report favorably I will withdraw my suggestion and support Mr. Low.

Mr. Hinman — Mr. President, it would rather seem to me that in the absence of the chairman of the committee, who I believe has some decided notions with reference to this matter, we ought not to pass upon it by referring back to another committee in his absence and therefore I would like to move to postpone consideration of this motion until next Monday evening's session.

Mr. Low — I think that is a graceful action to take.

The President — It is moved that the disposition of this report be postponed until Monday evening's session. All in favor of the motion will say Aye, contrary No. The Ayes have it and the motion is agreed to.

Are there any further reports of standing committees?

Mr. Hinman — Mr. President, in behalf of the Committee on Legislative Powers I desire to offer a Proposed Constitutional Amendment which the Committee desires to introduce and have referred to the Committee.

The President — The Secretary will report the amendment proposed by the Committee on Legislative Powers.

The Secretary — Proposed Constitutional Amendment.

Second reading. To amend generally Article III of the Constitution, following Section 9 of such Article.

The President — Referred to the Committee on Legislative Powers.

Mr. Stimson — Mr. President, I have been directed by the Committee on State Finances to move to have this document, which is the answer of the State Comptroller to a resolution of this Convention asking for information relative to the sinking funds of the State of New York, printed as a public document. It contains the information as to the present condition of the sinking fund which it will be very important to have available to the Convention in such shape that it will be before every member at the time the recommendations of the Committee on State Finances come before this body. I make that motion and ask to have it referred to the Committee on Contingent Expenses.

The President — Referred to the Committee on Contingent Expenses.

Reports of select committees? Are there any reports from select committees?

Third reading.

Unfinished business in general orders.

Special orders.

General orders. The Secretary will call the calendar.

The President — No number upon the calendar being moved, is there any further business before the Convention?

The Chair is requested to call the attention of the Convention to the condition of complete preparedness of the library, in which there are accommodations for the use of the members of the Convention and a supply of the literature which the Committee on Library understands to be most necessary for the members' use.

The Chair is also requested, following the intimation in the resolution introduced by Mr. Wiggins yesterday — to call the attention of the committees to the fact that now is the time for the expression of any opinion which a committee may have to express upon measures, copies of which are sent to the committees for their information and for the expression of such opinion as they wish to give out. Any committee having views to express upon a Proposed Amendment, the jurisdiction over which is in another committee, is requested to make its views known to the committee having original jurisdiction, with as little delay as possible.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:35 a. m., the Convention adjourned, to meet at 10 o'clock a. m., Saturday, July 10, 1915.

SATURDAY, JULY 10, 1915

The President—The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. J. Addison Jones—Let us pray. Oh, Eternal God, to whom we are indebted for the gift of life, and unto whom we must render a final accounting in terms of character and service, in loving kindness wilt Thou harken unto our petitions and fulfill our requests as we seek of Thee wisdom and strength for the duties of this day. Create in us a clean heart, we beseech Thee; impart unto us the spirit that is right and will do right, so that in our thoughts, our words and our deeds, we may fulfill Thy gracious and holy purposes for our race. Grant that we and all men may exercise ourselves to attain the well-poised mind, the clear conscience, the pure heart and the spirit of sacrifice so that we may achieve an honorable record of useful service for our day and generation, and to Thee we will give all the praise forever more. Amen.

The President—Are there any amendments to be proposed to the Journal as printed and distributed?

There being no amendments proposed the Journal is approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the city of Beacon, which will be referred to the Committee on Cities.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Quigg—There is no use holding any Saturday meeting, if this is what is going to happen. We might all of us really be attending to our business or living at our homes. I give notice, therefore, that as soon as we really get into general orders, I shall call for the attendance of members on Saturdays if the rule is going to prevail. If the Committee on Rules will modify the rule and omit Saturdays, all right, but if there is going to be a session on Saturdays, I am going to ask for the attendance of the members. I simply rise to give notice of that fact.

Mr. Bunce—I offer the following resolution.

The Secretary—By Mr. Bunce: Resolved, That Denton G. Lake be employed as tally clerk of this Convention at a compensation of \$8 per day.

The President—Referred to the Committee on Contingent Expenses.

Mr. Cullinan — On behalf of Mr. Wiggins, who is unavoidably absent this morning, I offer the following resolution.

The Secretary — By Mr. Wiggins: Resolved, That Henry F. Kenney be appointed a messenger at a salary of \$3 per day from July 1st, in place of Lee V. Gardner, transferred.

The President — Committee on Contingent Expenses.

The President — Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The Secretary will make the announcements.

Mr. Wickersham — I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 8:30 p. m. Monday evening.

Whereupon, at 10:10 a. m., the Convention adjourned, to meet at 8:30 o'clock p. m., Monday, July 12, 1915.

MONDAY, JULY 12, 1915

The President — The Convention will please be in order.

Prayer will be offered by the Rev. F. G. Coffin.

The Rev. Mr. Coffin — Oh, Lord, our God, deeply conscious of our limitations, we come to Thee asking that Thy blessings may be upon us and that Thy guidance may be our surety. There are times when especially we need Thy help, when we plan for those that are to be and the days that are to come. We pray Thee that these Thy servants, whom Thou hast called with the voice of the people, may be given special wisdom for the tasks which are before them. Bless the Commonwealth which we all represent. May we love honor and truth and righteousness and seek to practice these. Forgive us our sins, guide us to the end of our days, and unto Thee shall be the glory now and forevermore. Amen.

The President — Are there any amendments to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication containing a copy of a resolution adopted by the common council of

the city of Newburgh, which will be referred to the Committee on Cities; also a communication containing copy of a resolution by the common council of the city of New Rochelle. Same reference.

Are there any further memorials or petitions?

Communications from the Governor and other State officers?

The Chair lays before the Convention a communication from the Court of Claims in response to a resolution adopted by the Convention on the 21st of May, which will be referred to the Committee on the Judiciary.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. J. G. Saxe — Pursuant to the suggestion of the Committee on Legislative Powers, I move to discharge the Committee of the Whole from further consideration of my Proposed Amendment, Introduction No. 214, to reprint as indicated, and to recommit to the Committee of the Whole and retain its place in that Committee.

The President — Is there any objection to the order proposed by Mr. Saxe?

Mr. Quigg — I don't know what that means. There has been a report from the Committee on Legislative Powers?

Mr. Saxe — That is right, and the bill is now in the Committee of the Whole.

Mr. Quigg — And you propose to change your proposition?

Mr. J. G. Saxe — The Committee has changed the proposition as it came to that committee, and I have done it pursuant to the request of the Committee on Legislative Powers.

Mr. Quigg — I would like to know what the change is, if it is going into the Committee of the Whole.

Mr. Saxe — It will be printed and placed on the Delegates' desks to-morrow morning.

Mr. Quigg — I ask that it be read, Mr. President.

Mr. J. G. Saxe — If the Clerk will read just so much in italics on the second page, I think it would be quite clear.

Mr. President — The Secretary will read so much of the paper handed up by Mr. Saxe as indicates the Proposed Amendment.

The Secretary — Page 2, line 11, after the word "state," insert in italics, "or against any political subdivision thereof."

"Authorizing any political subdivision of the state to allow or pay any claim or account."

Mr. J. G. Saxe — The amendment has been suggested by the Committee, and the Committee approved it in that form.

The President — Is there any objection to the making of the order that is proposed to discharge the Committee of the Whole,

to amend the proposition, the Proposed Amendment to the Constitution, and to recommit to the Committee of the Whole in the amended form?

There being no objection, the order will be made.

Mr. Stimson — Mr. President, with respect to Proposed Amendment No. 716, now under consideration by the Committee on State Finances, I move that the Committee be discharged, that it be amended in accordance with this amendment, and that it be recommitted after being amended to the Committee for its further consideration.

The President — Mr. Stimson moves to discharge the Committee on State Finances from consideration of Proposed Amendment No. 716; that it be amended as indicated and recommitted to the Committee on State Finances. Is there objection? Without objection that order will be made.

Mr. Clinton — Mr. President, I offer a resolution.

The Secretary — By Mr. Clinton: Resolved, that Mrs. Frances Dulin, Stenographer, be excused from failure to attend on Thursday, Friday and Saturday of the past week because of a death in her family.

Mr. Clinton — Mr. President, I should have offered that resolution last week and would have but for my absence.

The President — Is there objection to the resolution offered? There being no objection, the resolution is agreed to by unanimous consent.

The President — Reports of Standing Committees?

Mr. Wickersham — Mr. President, on Friday, the Committee on Legislative Powers reported a Proposed Constitutional Amendment which I have introduced; a motion was made to refer it back to that Committee; a motion was made to amend that by referring it to the Cities Committee and then a motion was made that consideration of the matter be postponed until this evening in order that the Chairman of the Committee might be present when the matter was considered. I have a note from Mr. Barnes just now, stating that he is ill and will not be able to be here until Wednesday, and I therefore move that further consideration of that report be postponed until Wednesday.

The President — The motion is to postpone consideration of the report. Those in favor will say Aye, contrary No. The motion is agreed to.

Reports of standing committees are in order.

Reports of Select Committees.

Third reading.

Unfinished business of General Orders.

Special Orders.

General Orders.

The Secretary will call the calendar.

The President — Three numbers upon the calendar having been moved, the Convention will resolve itself into Committee of the Whole for consideration of the Calendar. Mr. Wadsworth will take the Chair.

Mr. Wadsworth — Mr. President, I thank you for the honor, but I hope you will excuse me, as my hearing is not good enough.

The President — Mr. Austin will take the Chair.

Mr. Austin — Mr. President, I have an amendment on the calendar, the second amendment, which I propose to discuss. I would be very glad otherwise to take the Chair.

The President — Mr. Whipple will take the Chair.

(Mr. Whipple takes the Chair.)

The Chairman — The Convention is now in Committee of the Whole on the General Orders Calendar.

Mr. R. B. Smith — No. 410,— I stated, when the amendment was under consideration on Thursday, the purpose of the amendment. I anticipate that the two amendments bring before the Convention first the question as to whether the prohibition shall be aimed at the governmental unit and leave it to the Legislature to work out the application as to particular officers, or whether the prohibition shall be aimed at the officers themselves and be self-executed without further legislative action. I will say personally I have no choice or preference in the matter except to make the language definite so that it cannot be misunderstood and in order that its application may be defined.

There is a further question involved in the use of the language, whether we shall use "civil division of the State," "political division or subdivision of the State," or either in the State, and that comes from a lack of precision in the use of the terms in the various decisions of the Court of Appeals which can all be readily found in the Westchester County Tax case which has been recently decided by the Court of Appeals. Peculiarly enough, in the same opinion, we find cited from 55 N. Y., referring to Section 2, Article X, counties, cities, towns and villages,— we find them referred to as "civil and political divisions of the State." Further, in the same case, they are referred to as "governmental divisions of the State." In 150 N. Y., they are referred to as the "smallest divisions of the State," and also referred to as "local divisions" and "local political divisions of localities," and in 182 New York,— no, not that.

In the case itself, in 203 New York, they are referred to, "Civil divisions for political purposes," and Judge Seabury himself does not elucidate the situation much by referring to them as "political subdivisions."

The term "civil," as I find it, in relation to judicial and governmental affairs, in judicial matters is referred to and is used in contradistinction to the term "criminal." In governmental matters it is used in contradistinction to the term "military."

Civil government is the opposite of military government. Civil servants are the officers and employees of the State, not employed or engaged in the military service.

Political divisions, or subdivisions, whichever we call them, fortunately have been defined by a learned jurist, and the definition is as follows: "The distinctive marks of political divisions are that they embrace a certain territory with their inhabitants organized for the public advantage, and not in the interest of particular individuals or classes, and that their chief design is the exercise of governmental functions."

That definition is given in the case of Lydecker against the drainage and water commissioners of the town of Englewood, in 41 New Jersey Law, and is followed and approved in Smith against Howell, 60 New Jersey Law, in which the court hold that a water district, either a water or a lighting district is a governmental, or is a political subdivision.

I speak of this on account of the use of the language in the Constitution, in Section 1 of Article XII, where the following language is used in connection with the labor amendment: "The Legislature may regulate and fix the wages or salaries, the hours of work or labor," etc., "labor or services for the State, or for any county, city, town, village or other civil division thereof," using the same language which is defined by Judge Seabury as a political subdivision and referring to the same governmental unit.

It does not seem to me that it makes so much difference what language we use, as that by the debate here, whatever language we use, we define it in its application.

The political subdivisions which I think is the proper term, to which I refer in this amendment, are school districts and utility districts in the town, such as water districts, sewage districts, lighting districts and districts of that character, which are set off from the territory in the town, which make contracts and impose and incur obligations, which are used as a basis of taxation, and, in fact, exercise that power of taxation which is a governmental function.

Personally, I am of the opinion that the prohibition should be aimed at bodies having the power of appropriation and bodies or officers having power of audit; not leaving it to the Legislature to say whether a Treasurer who performs the ministerial duty of paying upon the audit of other officers shall be charged with the misapplication of funds in case he pays out money for illegal

purposes. That is a matter of opinion and choice of language and personally I say it does not make much difference, provided we define its application.

Mr. Wickersham — Mr. President, the purpose of this amendment is to make more comprehensive and more applicable to existing conditions the prohibitions now contained in Section 28 of Article III of the Constitution. That section now reads, "The Legislature shall not, nor shall the Common Council of any city, nor any Board of Supervisors, grant any extra compensation to any public officer, servant, agent or contractor."

Obviously that omits from the provision a number of boards or officials of political subdivisions of the State who otherwise would have power to grant such additional compensation; but in considering the amendment proposed by Mr. Smith, it seemed to me that in the first place the prohibition would be more absolute if it were directed against the grant of any compensation if the section were turned around, and then if language employed in other parts of the Constitution were employed, and consequently I move to amend that prohibition to read as printed on the daily calendar, first page, "No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor, by the State or any county, city, village or other civil division of the State."

I omitted to include the word "town," which should be included, and I move to amend my Proposed Amendment by inserting after the word "city", the word "town", so as to make the provision comprehensive. The language so employed is that which is found in Article XII, Section 1, which makes it "the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses, in assessments and in contracting debt by such municipal corporations, and the Legislature may regulate and fix the wages or salaries, the hours of work or labor and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State." And this is the language I have incorporated, "by any county, town, village or any other civil division of the State." I take it these terms are intended to be comprehensive and embrace every part of the State government which has the power of granting money or exercising governmental functions, and the section goes on to say, "or for any county, city, town, village, or other civil division thereof."

Now, there is one other difference between the proposal as reported and the amendment I have proposed, and that is mainly,

as I understand Mr. Smith, his idea is that in the form of his Proposed Amendment,—the form of his Proposed Amendment would be self-operating, and that a prosecution of any individual for a failure to obey its provisions or for a departure from its mandate, would be punishable directly under the Constitution.

Mr. Chairman, it seems to me that that is not the function of the Constitution. The Constitution is a grant of powers, and the imposition of restrictions upon government. It is for the Legislature by the Penal Code or otherwise to provide means for enforcing the provisions contained in the Constitution, and if the provision is absolute that no extra compensation shall be granted or allowed to any public officer, contractor or what-not, by the State or by any of the civil divisions of the State, I can imagine nothing more comprehensive, and the Legislature will be charged with the duty of enacting any penal laws that may be necessary to insure compliance with that prohibition.

Now, that, as I read it, is the philosophy of the other provisions in different parts of the Constitution. For example, I find in the twenty-first section of the third article, "No money shall ever be paid out of the treasury of this State or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law," etc., and then I find in another provision, Article VIII, Section 9, "Neither the credit nor the money of the State shall be given or loaned to or in aid of any association, corporation or private undertaking."

In each of these instances, and I believe there is one other in the fourteenth section of Article VIII, "Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized but shall not be required by the Legislature."

And in Section 4 of Article IX it says, "Neither the State nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught."

So that we find in those, and possibly in some other, provisions of the Constitution, restrictions upon the power of various branches of the government to appropriate moneys or to recognize claims, and for that reason I have suggested as more comprehensive, more consonant with the other provisions of the Constitution, the language of the amendment which I have proposed and

I have used in that the phraseology of the other section in which these civil divisions of the State are prescribed.

Mr. Saxe — I merely wanted to ask a question of the gentleman from New York and that is as to whether this language is so broad as to cut out extra compensation to the judiciary?

Mr. Wickersham — I take it this language would cut out extra compensation, Mr. Chairman, of any branch of the public service, in the sense in which it is used there.

Mr. M. Saxe — Supposing the State provided for the salary of the judiciary, we will say of the Supreme Court — provided a certain figure, and then some part of the State desired to give extra compensation because the work was particularly heavy in that part of the State, would not this —

Mr. Wickersham — I understand that is not extra compensation within the meaning of this statute. Extra compensation would arise if, for example, upon the representation that some of the judges had had a very hard-worked term, and that extra compensation of \$1,000 should be allowed them for services in that term—that would be prohibited.

Mr. Bunce — I presume it is presumptuous of me to suggest anything to the amendment of the leader, but it occurs to me that it would be better in the last line of the Wickersham amendment to insert the two words “or subdivision,” for the reason suggested by Mr. Smith, that there are lighting districts in towns which would probably be subdivisions, and I desire to propose an amendment that after the words “civil divisions” there be inserted “or subdivisions.”

Mr. Wickersham — Mr. Chairman, may I say to the member, Mr. Bunce, that I used the language of the Constitution itself for the express purpose of avoiding the conflict of decision to which Mr. Smith referred in his opening remarks. I thought that if we adhered to the language employed by the Constitution itself in Article XII we would be safer than by attempting to follow the deviations of various presentments in various opinions of the court to which Mr. Smith referred; but for that, Mr. Bunce, I should think your amendment would be well taken.

Mr. Baldwin — I should like to ask the gentleman from New York if he thinks that the language employed is sufficiently broad to cover that new species of corporations, namely, a river regulation district, whose creation was authorized by the last Legislature, and whose boundaries are to be fixed, I believe, by the Conservation Commission? It is pronounced to be a corporation. It is governed by three individuals appointed by the Governor. It has the power of assessment and taxation and of entering into contracts for the construction of public works. I would like to ask him if

he thinks that that is a civil subdivision or division of the State within the definition as he has laid it down?

Mr. Wickersham — Frankly, I should not. I am not familiar with the particular act, but I should frankly doubt whether that were included within "civil division."

Mr. Cullinan — I respectfully beg leave to differ with the Chairman of the Judiciary Committee in regard to the effect of the use of the language to which he has called our attention, and rather agree with the provisions as submitted by Mr. Smith. Now, civil divisions are laid down precisely and distinctly not only by the statute but by the Court of Appeals recently, and there is no particular — nothing by inference except in bare, naked language.

Mr. Wickersham — Have you read the language of that last?

Mr. Cullinan — Yes, I have read that, but it seems to me that the interpretation of Mr. Wickersham's amendment would, by inference, leave no power to punish members of water boards, of pipe line or electric light boards, which do not constitute civil divisions of the State, and they might grant extra compensation to some public officer with impunity.

Mr. Clinton — I arose originally to make practically the same criticism that Judge Cullinan has made. The term "civil division," notwithstanding what the courts may have said, always carries with it territorial definition, and it is not true that territorial definition accompanies the formation of all political bodies within the State. Mr. Baldwin has just given an illustration. Under the statute to which he refers, the districts which may be formed have not territorial definition or will not have, but they are made political bodies. That is your understanding, is it not, Mr. Baldwin?

Mr. Baldwin — Yes.

Mr. Clinton — It is my understanding, as I had a hand in preparing the statute. I would therefore suggest that, notwithstanding whatever language may have been used in the preparation of the Constitution of 1894, in other cases,—that if the intention of the delegate who has prepared this amendment is to meet with the full approval of the Convention the word "political" should be used. It may be used in connection with "civil"—"civil or political." I rather like the suggestions of the delegate from New York as to the other changes.

I do not like the word "division." It seems to me the matter is so important that the amendment ought to be sent back after this Committee rises; this Committee ought to take no action except to ask leave to sit again and that the amendment ought to be sent back by the Convention so that the phraseology may be properly prepared to meet the conditions that the mover of the amendment desired, and which I believe this Convention will desire.

Mr. Marshall — I prefer the phraseology of Mr. Wickersham, but I think, with Mr. Cullinan, that the language does not go far enough. I suggest, therefore, that at the end of the proposed clause, as formed by Mr. Wickersham, we add the words "or by any board or officer thereof."

Mr. R. B. Smith — That is broad enough.

Mr. Wickersham — I accept that amendment.

Mr. Marshall — I disagree with Mr. Baldwin and with Mr. Clinton, however, in regard to this river improvement board or corporation. The mere fact that it is a corporation does not any the less make it a civil division of the State. A city, a town, a county, is a corporation under our governmental system. In some cases the city is a municipal corporation, and in the others they are quasi municipal corporations, and this river improvement board is in the nature of a civil division of the State.

I think the words "civil division" are a very complete phrase, and that the phrase has the virtue of maintaining the uniformity of phraseology which it is very important that we should preserve in the Constitution. The ladies called our attention the other day to what they claimed showed that we were not very consistent in the use of words, and I think, perhaps, we may profit by the lessons they taught us in that regard.

I, therefore, think if we amend this proposition it should be amended in the way indicated by Mr. Cullinan and by the words that I have used.

Mr. Wickersham — What is the wording?

Mr. Marshall — After the word "state," add "or any board or officer thereof."

Mr. Baldwin — I am rather surprised that the gentleman should say that I expressed an opinion, when I merely asked a question as to the extent of the language used, whether it would embrace this particular kind of corporation.

I have another suggestion to make: I do not want to embody it in the form of an amendment, but would ask that it may be taken into consideration, whether after the word "state," we should add "having the power of taxation and assessment." I don't know that it is necessary.

Mr. J. G. Saxe — I want to call the attention of the Committee of the Whole to one point in connection with this amendment. This Proposed Constitutional Amendment was considered in the Committee on Legislative Powers. That Committee on June 15th reported the Proposed Constitutional Amendment, which appears in your bill file, but it is not printed on the General Order calendar.

The introducer of the measure then proposed to amend it on the floor and his amendment is pending, and then the majority leader

has proposed another amendment. Apparently nobody wants the amendment which the Committee has passed upon and which the introducer originally put forth, and it seems to me both of these amendments ought to go back to the Committee on Legislative Powers, so they may pass upon what the introducer now wants, and upon Delegate Wickersham's proposed amendment, and see if we cannot arrive at a proper measure and report it to this Convention, so the Convention may then have the benefit of our report and act on that report, rather than that we should be talking about verbiage now, when the Committee has not acted upon it at all.

I do not want to interfere with the delegate's Proposed Amendment to the extent of moving to recommit, but it seems to me, in the interest of proper procedure, it should be done in this way.

Mr. D. Nicoll — I do not believe that the amendment suggested by Mr. Marshall is necessary. It seems to me that the language proposed by Mr. Wickersham will cover the very cases suggested by Mr. Marshall.

These words, "the civil divisions of the State," came into the Constitution by virtue of an amendment which I made during the course of a debate on the civil service provisions in the Convention of 1894.

The original proposition relating to civil service concerned only the cities of the State, and during the course of the debate I moved to amend it by incorporating in the Proposed Amendment the words "the civil divisions thereof, including cities and villages."

Now, those words, "the civil divisions of the State,"—under this provision of the Constitution, have been frequently discussed in the Court of Appeals, and my understanding of those decisions is that they have been construed broad enough to include every governmental agency, and that seems to be the effect of the decisions which are quoted in this miniature Constitution, under the civil service provisions, Section 9 of Article V.

If that is the state of the law at the present time, why, nothing further is needed.

Mr. Marshall — Do you think that it refers to a board, or to an individual officer?

Mr. D. Nicoll — It includes all governmental agencies.

Mr. Latson — May I inquire from Mr. Nicoll whether, while the term "school district" may have been considered as falling within the term "civil division," has the term "board of education" been construed to fall within that term?

It occurs to me that under the language suggested by Mr. Marshall, a board of education would clearly be included, but without the use of the words thus suggested, it seems to me there might be some doubt about it.

Mr. D. Nicoll — Well, I do not recollect any decisions of the Court of Appeals relating to the board of education. There may be some.

Mr. Latson — Without those words suggested by Mr. Marshall, it occurs to me there might be some doubt.

The Chairman — What is the pleasure of the committee? Is there any motion to be made in relation to this bill?

Mr. Wickersham — I move the adoption of the amendment as proposed by me, and as amended by the amendment proposed by Mr. Marshall, which I have accepted, and then I move that the proposition, No. 410, be amended so as to read, "No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor, by the State or any county, city, town, village or other civil division of the State, or by any board or officer thereof."

That certainly will be all-comprehensive, and the purpose of this amendment is to make it all-comprehensive, and I, therefore, move the adoption of that amendment.

Mr. R. B. Smith — Do not you think that it would be wise to use the term "body," so as to make it read, "board, body or officer?"

I am in doubt whether a commissioner elected under a commission form of government is a "board," or that it is so termed. In bill-drafting we usually, to be on the safe side, use the term "board, body or officer," and that is well-recognized language in all of the statutes of the State, where we refer to general bodies or officers.

Mr. Wickersham — Mr. Chairman, I accept that.

Mr. Brackett — I want to suggest to the delegate in charge of the bill, as well as to the gentleman from New York who has made the Proposed Amendment, that the suggestion of Senator Saxe ought to be followed.

It is the undoubted right, in any legislative body, that the introducer of a bill shall be allowed to put it in such shape as he pleases, and then the body will exercise its judgment either for or against.

It is much more orderly, and I believe much safer, in the light of this discussion, that this bill should go to the Committee on Legislative Powers, and let that committee report it out in the form it believes it ought to be, and then see if it does not or does meet all the points that are here covered.

Mr. R. B. Smith — Mr. Chairman, that is perfectly satisfactory to me, and I move that when the committee rises, it report, with the recommendation, that the bill be recommitted to the Committee on Legislative Powers.

Mr. Wickersham — Before that motion is passed, I would like to say that I have no objection to this particular measure being referred back, but I do think that it is establishing a bad precedent.

The Committee on Legislative Powers, or any other committee, passes upon a proposal. If it chooses to report it exactly in the language in which it was proposed, it comes then to the Committee of the Whole and is subject to discussion, to amendment and to the disposition of the body.

Now, if every time the proposal is changed it is to be recommitted to the committee from which it came, we will never get through. I do not suppose that many proposals will come here from committees that will not be subject to some amendments, and I do not think that every time a proposal is modified in language,— and that is all that is done here; if this amendment should be adopted, it does not alter in the slightest degree the substance of the proposal, it merely changes its form,— and I do not think it ought to be sent back to the committee, to recast that form and come back here again and occupy the attention of the Committee of the Whole another time, and, therefore, for that reason, I am inclined to be opposed to this motion.

Mr. R. B. Smith — Mr. Chairman, I am very agreeable and I will accept that suggestion. I withdraw my motion and state that I am perfectly satisfied with the amendment in the form last suggested, and which, as I understand, General Wickersham has accepted.

The Chairman — The question occurs on the motion of Mr. Wickersham to amend. The Clerk will read the proposition as proposed to be amended.

The Secretary — “No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor, by the State or any county, city, village or other civil division of the State,”—

Mr. Wickersham — No. Add “town.”

The Secretary — “City, town, village or other civil division of the State, or by any board, body or officer thereof.”

Mr. Latson — Mr. Chairman, before the question is put, may I offer one other suggestion? I assume that this provision, like all provisions of this character, will receive a technical and strict construction. I am in doubt as I read the section, thus amended, concerning the reference of the word “thereof.” The last words, the words suggested by Mr. Marshall, “or by any board or officer thereof,” to my mind the inquiry whether the word “thereof” refers simply to the civil divisions of the State, or whether the context would make it broad enough in its application to refer, as

I think we want it to refer, back to the State, or the county, or the city, or the village, as well as the civil divisions, and I am in some doubt; it seems to me there is an ambiguity.

Mr. Marshall — I think it refers to all of the antecedents.

Mr. Latson — I am not sure, Mr. Marshall. Mr. Chairman, I am not sure that that construction would be sustained, although I am perfectly clear that that was the intention of the gentleman who suggested those words.

Mr. Wickersham — What is the gentleman's suggestion?

Mr. Brackett — "Or any of the same."

Mr. D. Nicoll — "Or either thereof."

Mr. Latson — Mr. Chairman, I was compelled to rise very quickly because the question was about to be put, and I had not time enough to formulate language. As suggested, it reads, "or by any board or officer thereof."

Mr. Marshall — No, "or by any board, body or officer," and you might add, "or any of them."

Mr. Latson — Am I correct, "or by any board, body or officer thereof;" that is the language, I think.

Mr. Quigg — Then you add, "or any thereof."

Mr. Latson — Has the word "body" been introduced?

Mr. Olcott — Yes.

Mr. Latson — "Or by any board, body or officer thereof."

Mr. Quigg — "Or any thereof."

Mr. Wickersham — I think we have come to a point now where some nice construction of language is required, and I move that the further consideration of this matter be postponed; that when this committee rises it report progress and ask leave to sit again on this amendment; that in the meantime the amendment, as it is now proposed, shall be printed in General Orders for our consideration at the next session.

The Chairman — The gentleman from New York withdraws his original motion and moves that the Committee, when it rises, report progress, and ask leave to sit again. All in favor of that say Aye, opposed No, if any. Carried.

The Secretary — No. 376, General Order No. 4, by Mr. Austin.

Mr. Austin — I assume you are asking if there are any amendments. I offer the following amendment to the resolution as reported and as it appears upon the Calendar, and I state for the benefit of the delegates that this amendment restores my proposal to its exact original form, printed No. 78, and upon this motion to amend, I shall say all that I have to say upon the original proposition, and upon the proposal as amended and reported.

Most of the delegates are aware that the present Constitution provides that no bill shall be passed by the Legislature — this is

the effect and not the words — until it shall have been printed in its final form and upon the desks of the members for at least three days, unless the Governor shall have certified, under the hand and seal of the State, that some public necessity requires the immediate passage of the bill.

No. 78, which was the form in which I originally introduced this proposal, eliminated the following words: “unless the Governor, or the Acting Governor shall have certified to the necessity of its immediate passage under his hand and the seal of the State”, making no other change in the present constitutional provision.

The effect of this is to provide that no bill can be passed under an emergency message, and that no bill can be passed and become a law unless it shall have been printed and have laid in its final form upon the desks of the members for at least three days.

Prior to 1894 there was no Constitutional provision for printing of bills and there was a great deal of debate upon this subject when it was introduced in the Convention of 1894 and finally adopted. There was grave doubt expressed as to whether it would be possible to print bills in this great hurry and get them on the desks of the members in time for passage; but time has proved the wisdom of the enactment as it was made in 1894, except for this little loophole which in a great many ways destroyed that which it was hoped would be accomplished.

Mr. Quigg — What is the form of the Constitution as it stands?

Mr. Austin — Well, if you will give me time I will try and tell you, Mr. Quigg.

Mr. Quigg — I want to call the gentleman's attention to the fact that this gives the Governor an extraordinary power to push through legislation, if he wants it, and I ask the gentleman to say what the harm of the present system is.

Mr. Austin — The present system gives him an extraordinary power.

Mr. Quigg — It does, indeed.

Mr. Austin — I am proposing to take away the present system, and provide that no emergency message shall be given by the Governor and no bill passed thereunder.

Now it seems to me too plain for discussion that you can not have a proper consideration of legislation by the Senate and Assembly, nor can you have an intelligent discussion of provisions which may come before this Convention unless they are printed or written and placed before us for a length of time sufficient to allow you to familiarize yourselves with what is proposed to be done.

Now the original idea of the use to which the emergency message was to be put was an excellent one; it was designed, or rather, it was feared, that there might arise great public emergencies in which it would be necessary to pass legislation rapidly and this proposal was intended to cover cases of that kind, but as a fact it has degenerated absolutely into nothing but a message of convenience and not a message of necessity.

Now I wish to call the attention of the Convention to what was said by the President of this Convention in discussing this very proposition in the Convention of 1894. Here is what was said by Mr. Root and it appears in the revised Record, volume 1, page 902: "For if we are correctly informed one of the principal evils in the way of legislation is that after a bill has been introduced and considered and treated in one form, at the last moment, in the twinkling of an eye as it were, it is changed into a different form and another bill affecting different interests in different ways is practically substituted for it and passed even before all the members of the Legislature know what they are doing, much less their constituents and the public who keep watch of their proceedings."

Now, gentlemen, those who are familiar with legislative procedure during many years past, know that the exact situation referred to by Mr. Root has resulted from the use of the emergency message. It was intended, beyond a doubt, that these messages should be used only in the case of a real public emergency and it was not intended, gentlemen, that they should be used as a dose of strychnine for legislation which was in its last gasps, on the last day or two of the legislative session, and which had not received proper attention earlier in the session. It was not intended to permit the passage of appropriation bills, patched and interlined until they became so that not even the Chairman of the Finance Committee could tell exactly what was in the bill, and yet that is exactly what has been done in the use of the emergency message. I think it may well be doubted whether there ever has been, since 1894, a real emergency where it was actually necessary to pass a bill within three days of its introduction.

Now I have taken pains, because I have been interested in this subject for a long time and have been somewhat familiar with legislation — I have taken pains to collect a few statistics showing the increase in the use of the emergency message and the ridiculous usages to which it has been put on two or three occasions. I find that during the past 20 years 502 bills have been passed under an emergency message from the Governor, and will note how gradual the increase has been. In 1895, which was the first year after the adoption of this amendment, four messages were given

by Governor Morton; the following year he gave 5 messages. Governor Black in 1897 gave 7 messages; and in 1898, 14. Governor Roosevelt in 1899 gave 17 messages; in 1900, 22. Governor Odell in 1901 gave 27; in 1902, 19; in 1903, 13, and 1904, 24. In 1905 Governor Higgins gave 20; in 1906, 22. Governor Hughes in 1907, gave 41; in 1908, 30; in 1909, 22; in 1910, 23. Governor Dix in 1911 gave 24; in 1912, 20. Governor Sulzer in 1913 gave 49, and Governor Glynn in the special session of 1913 and the regular and special sessions of 1914, gave 99.

Now do not misunderstand me; I intend no criticism of the governors who issued these messages when I show how the practice has grown. I have no doubt whatever that these Governors would have been very glad to have been relieved from the pressure which was brought upon them for these messages; and we before the Finance Committee only last week heard Governor Glynn, who used more emergency messages than any other Governor, we heard him state that in his judgment the emergency message should be absolutely abolished. So this is not intended as any criticism of the Governors who have used these messages but simply a statement of what has transpired.

Now, of those 502 bills, it is interesting to note the classification — I found that 140 of them were appropriation bills, and in passing may I say that in only one year, 1902, was the appropriation bill, the general appropriation bill, passed early enough in the session so that it became unnecessary to pass it under an emergency message; 52 were amendments to the Election Law — and let me state with reference to that, that in but three years in the last twenty years, 1895, 1902 and 1903, in only those three years did the Election Law of the State of New York escape without some emergency message amendment in the last days of the session — 26 were amendments of the Greater New York charter and, before a committee of which I am not a member, the Cities Committee, on last Thursday or Friday, Senator Elsberg told that committee, not in discussing this measure at all, but in discussing the home rule proposition, he described how the New York City charter, one whole charter, was passed under an emergency message, as he described it "overnight," and packed until nobody actually knew what was in it when it was passed, and as a matter of fact it had been the intention to reduce the terms of all the city officers from four to two years, but in going through it hurriedly they failed to change the term of the coroners and left them at four years, so that when the city government of New York was reduced from a four-year to a two-year government the coroners escaped and held on for a four-year term. That was simply an illustration of what can happen under this crazy patch-work way of passing legislation; 18 were amendments to the Tax Law; 9 were amendments

to the Banking Law; 6 were amendments to the Rapid Transit Law; 7 to the Labor Law; 6 to the Liquor Tax Law and 5 to the Insurance Fund Law.

Now it would not serve any useful purpose for me to enumerate all of the purposes that have been held to create a public necessity under which emergency messages have been given. Some of you will recollect the wording of the emergency messages — “It appearing that the public interest requires it, I hereby certify to the necessity for the immediate passage of this bill” and these are some of them (indicating documents): “An act providing penalties for milk furnished to butter and cheese factories conducted on the co-operative plan.” Others relating to regulating the sale of flesh foods on Sunday, securing equal educational rights to colored children; fixing the season for possession and taking of geese, swan, and brant on Long Island; providing that fines collected from policy gamblers shall be paid to the society initiating the prosecution; creating the poor district No. 1 of the county of Orange — that will interest my Brother Baumes — creating a State Art Commission — heaven knows where that is now — regulating the use of highways for private hack stands — I think my friend Senator Brackett had some experience under that in the Court of Appeals; I was there when he was arguing upon it; regulating the conditions of employment in ice cream factories, and providing — (and this got me very strongly) “for the protection of persons and property in the village of Painted Post.”

Now I have no desire to criticise any party. If I pick out one to criticise it will be my own, and as an illustration of what happens under the use of this emergency message, I would only instance the passage of the Election Law Amendment in the last day of the last session. That was a provision of law passed under an emergency message by the party to which I belong and I happened to be in the Chamber when it was passed. I make no criticism of the law because I know it is a very good law. It was introduced, I think, on the very last day, or possibly the day before the last day of the session. It was not even printed, I think, at all, when it was passed. I heard members of the Legislature rise and ask the member of the Assembly who had charge of the bill what it did with reference to this particular, and what it did with reference to that particular, and even he could not answer. He admitted on a number of things that he did not know what that bill provided in connection with that matter.

Now, gentlemen, of course we always say if a thing is not all right the Governor will veto it. But this bill came from the Executive — and I make no criticism upon him for his course at all; it is done by both parties, right straight along. It came from

him; it was passed by a Legislature which did not know what was in it and it went back to him for approval if it should turn out to be all right, which in effect was permitting the Governor to initiate and finally determine legislation without any real action by the Legislature at all, and I maintain as long as we follow a course of that kind we must not grumble because the laws are not good.

I had a personal experience in the last four or five years of a statute amended under an emergency message in the last days of the session. I am not going to tell anything about it because it may still affect some rights, but it affected the rights of clients of mine to the extent of fifty or sixty thousand dollars. It was introduced on the last day, an amendment to a general statute, and, through inadvertence, it repealed absolutely certain sections of the law which were not intended to be repealed. It had not been printed. I had not seen it, neither had anybody else who was interested in it, and the Governor in the best of faith signed the bill, and after it was signed we found out about it and I did not know what we were going to do but we finally thought we would keep our mouths shut and trust that the other people would not find it out and I am glad to say that they did not, because, if they had, clients of mine would have been out large sums of money and the following Legislature the sections which had been repealed were inserted in the law and no damage was done at least to my clients.

Now it may possibly be argued that appropriation bills require the use of an emergency message, that they should be held to the last day of the Legislature.

Now I maintain that that is not true. And, while I am thoroughly in sympathy with the movement to create a budget system of some kind and believe that it will result in great economy and the good of the State, I earnestly and honestly believe that there is nothing which this Convention can do which will tend to economy more than the requirement that an appropriation bill cannot be passed until it has lain upon the desks of the members for a sufficient time for the leaders of the minority to criticise and examine it if they so desire and for the representatives of the press to criticise if they think the bill requires criticism.

There is no reason why appropriation bills just as well as other bills should not be printed and examined and understood before we attempt to set aside fifty or sixty million dollars for the use of our government. What private corporation would think of appropriating fifty million dollars for the expenses of its business without knowing what it was appropriating the millions for? And I am very, very earnest in my belief that it will not affect appropriation bills adversely, but, on the contrary, it will do much good and result in much economy in that respect.

I don't desire to take up the time of the Convention in discussing this matter. I think many of you are very familiar with it now — with the whole question. Certainly those who are members of the Legislature are familiar with it and need nothing more from me on the subject; but I do believe that this amendment would not embarrass the Executive; that it will not embarrass the Legislature, but on the contrary that it will help the Legislature because it will compel the early consideration of bills of importance which should not be considered in the last two or three days of the sessions when the leaders of both sides are so fatigued that sometimes they could not see a joker if it was there. It will compel the early introduction of bills; it will compel full and complete consideration of them, and I believe will do great good to the people of the State.

I simply say in conclusion that which I stated when I began: The message of emergency has become nothing more than a message of convenience; it has become detrimental to the best interests of the State and I hope that this amendment will be passed by this Convention.

Mr. A. E. Smith — With the understanding as expressed by the delegate from Greene that this would probably be the final debate on the proposed amendment to the Constitution, I desire to make a few remarks.

I am in very hearty sympathy with the proposed amendment to the pending amendment to the Constitution to take from it the power to give emergency messages by the Governor.

I can very readily understand what the framers of the Constitution had in mind twenty years ago. They were undertaking a new venture. They were suggesting that no bill would pass unless it be three days printed, and they had in mind that there might arise some great emergency, that there might arise some condition that would necessitate some exception to that hard and fast and fixed rule and they believed that they were making proper provision for it when they provided that where the executive was willing under his hand and seal to certify that the public necessity demanded immediate action, that provision of the Constitution might with safety be waived.

What the gentleman from Greene says is absolutely true, that time and experience have very clearly demonstrated that there is no occasion whatever for the exception, and that its existence in the Constitution has simply given rise to an abuse that — not an abuse on the part of the Executive, by any means, but on the part of the Legislature itself, and of its committees, and particularly of its Committee on Ways and Means.

The abuse of the emergency message can best be figured out by

the time of the session at which it was given and what happened after it was given. I do not know any particular reason why my distinguished friend omitted the record of this year. He carefully crawled up to Governor Glynn and stopped.

Mr. Austin — I will tell you if you want to know.

Mr. A. E. Smith — I know myself; I am going to tell it. I think the performances of this year constitute the greatest argument against the message of all the years that the gentleman referred to, because, strange as it may seem, Chapter 1 of the Laws of 1915 passed the Assembly under an emergency message. I think this is the first time in the history of the State that the very first Chapter that was submitted to the Governor was one that he himself certified public necessity required its immediate passage. I remember a bill that passed here one night under an emergency message, amending the Workmen's Compensation Act. The Legislature passed it on Tuesday, and the Governor very solemnly certified over his hand and the Great Seal that the interests of the people of the State demanded its immediate passage; it passed on Tuesday, it was delivered to him at four o'clock in the afternoon, and he fixed the following Monday for a hearing on it.

Mr. Brackett — Then did he finally veto it?

Mr. A. E. Smith — No, he did not, but before he signed it he insisted on the passage of a companion bill, which also passed under an emergency message, without ever being printed; in other words, he amended it before he signed it. Somebody wanted to know what Chapter 1 was. It was the bill that threw all the Democrats out of the Court of Claims (laughter) and made room for Republicans in their places, and in the interest of economy, added two additional judges and made a slight increase in the salaries, just so that there would be no hard feelings.

The great keynote that my friend, Brother Austin, struck, was that it should go out of there for the proper protection of the minority. That is absolutely right. The people of this State, in this legislative body, in all legislative bodies, rule negatively as well as affirmatively, and there is no question that the interests of this State have been many times well and promptly safeguarded by a good, vigorous minority.

Mr. Brackett — While I am fully in sympathy with the argument that you make, would not the full interests of the minority be protected if it was made two instead of three legislative days, which would give ample time to discover any joker?

Mr. A. E. Smith — Well, yes, that would be true were it not for the fact that custom has made the legislative day from five minutes of twelve to twelve o'clock, on occasion. Now, if you will say three calendar days —

Mr. Brackett — Two calendar days; two calendar legislative days.

Mr. A. E. Smith — Two calendar legislative days; that would mean two full days of twenty-four hours each, but three legislative days is really only two calendar days, because if the amendment is put in at five minutes of twelve, that is a day, and the legislator who is not in his seat is lax in his duty for at least one day.

I want to ask the Convention to overlook Governor Sulzer's forty-nine messages. I did not want to have that go on the record without somebody who thinks kindly of him making some little excuse for him. He did not know really what an emergency message was. He read in the Constitution that the Governor shall annually on the first meeting of the Legislature submit a message showing the financial condition of the State and as often thereafter as the public necessity requires, and he regarded that those were all emergencies. His do not count.

Getting down to the serious consideration of the appropriation question: A good many of the instances that my good friend (Mr. Austin) mentions are not fair in the argument. I want to be fair. I do not want to take any advantage. When he speaks about Painted Post and those minor bills, it is not fair to offer those as bills that the Governor certified to the immediate passage of. What happened in those instances undoubtedly was this: A bill passed both houses and went down to the Governor, and there might have been a printer's error, there might have been a mistake discovered at the last minute, and for the correction of a very minor error, something that is so plain on the face of it that nobody could possibly quarrel with the change, the Governor might have sent a message to expedite it through the Legislature and get rid of it. That occasionally happens on the last day. Some of the bills that he spoke of were unquestionably of that nature.

It is not from the standpoint of the Governor — my claim is that the emergency has been the reason why the Legislature itself has left until the last minute that which is some of its most important work, the appropriation and supply bills, and that has been by design. I do not say that it has been by any one party more than the other. I was Chairman of the Committee on Ways and Means for a long and stormy session. I was the Speaker for another long and stormy session and had something to say as to when they were to pass, and I myself directed that they should wait until the last moment because it was easier. Now that is the truth about it. If you do away with the emergency message, you will compel the Committee on Ways and Means, you will compel the majority leader, the men that are responsible for

legislation in both houses, to have their program ready and put it through, and they can do it. They wait until the last minute to see if some bill that is pending in the Senate passes the Assembly. If it does, it may affect the appropriation and supply bills. It is just as well that a bill of that kind which does not pass before the last three days should wait until the next year, because it is not of sufficient importance to the people of this State, or it would have been acted on much earlier.

There is another class of bills that the emergency message has been very useful in passing in the last days, and those are the bills that give rise to dispute between the two houses. The Senate does not entirely agree with a little that the Assembly wants to do, or vice versa, and finally in the last days, while the flags are flying from the Capitol and the band is playing and everybody feels happy over the prospect of the last \$250 draw and a good time for the summer — they will patch up their differences and say, "Well, go downstairs and get a message and put it right through," and they do it, and the minority can do the best it can. As minority leader this year, I asked that the minority that I represented be entirely excused from voting on the election bill, and through the courtesy of the majority leader, Mr. Hinman, who thoroughly appreciated that no one of us could understand what was in the election bill, realizing that we were at least entitled to be excused from voting one way or the other on it, it passed this House just exactly as Mr. Austin says, in the closing moments, without anybody knowing anything at all about it. That is one of the class of bills that was held until the last moment, because there could not be any agreement between the two Houses as to some of its prominent features and at the last minute they said, "Well, we will let it go through the way it is, and we will fix it up next year. Go down and get a message." And messages came down over that desk, believe me! they came down there as though the Governor had sent them up in blank to be filled out by the clerk to suit the particular bill that you wanted to put through. Now that is all there is to the story of the emergency message.

On the other side, what has happened in two years in this State that could not wait a couple of days for the Legislature to think it over? Nothing. I can think of one great emergency, the burning of half the Capitol, and I can say now that it might have been well if we had waited a couple more days before we began repairs. Nothing has happened at all that I can think of that required a message. On the other hand, all the argument is against it and the amendment by our friend from Greene should prevail, and we should take it out of the Constitution.

Mr. Hinman — I simply wish to say that I fully agree with the

gentleman from Greene and with the gentleman from New York. The Convention of 1894 took the first step. In all likelihood it would have been impossible in that Convention to have taken the next step, which is the step that we should take to-day. I fully agree with the gentleman from New York (A. E. Smith) that it has been grossly abused, and will always be grossly abused.

He has indicated a few of the happenings of this year. I think he will agree with me that it was not my fault, as leader, but that it was absolutely essential in order that the will of the entire majority might be done. I might hark back to the years when my brother from New York was in the ascendancy, and particularly in the December session of 1913, when we passed the Workmen's Compensation Law in this house, with one hundred and over amendments that were offered, without anyone knowing what those amendments were, and with not a soul knowing what the real effect of that Compensation Law was going to be; when we passed at this same time and on the same day a Direct Primary Bill which no one knew very much about, and upon which we had an emergency message, and when we passed a Massachusetts ballot bill — and I am not saying that these three bills were not excellent measures, and perhaps well prepared, but for this House to call itself a deliberative body and to pass those three bills in the manner in which we passed them at that time was making a joke out of the Legislature and it ought not to be permitted. The great defect to-day is our lack of deliberative machinery, and I believe that this will be going a great way toward making deliberative machinery necessary. It will lead to legislative foresight instead of having it lean upon the Governor for an emergency message, which does, as the gentleman says, make it the Governor's legislation, and not a bill prepared upon the mature judgment of the Legislature itself.

Mr. Tanner — Mr. Austin has moved away from the amendment which was reported by the Committee on Legislative Powers back to the amendment which he originally proposed before that committee. No. 78, to which reference has been had, simply strikes out the provision authorizing the Governor to send in an emergency message. That went before the Committee on Legislative Powers. It was amended after a very full debate in which, if I recollect, my friend, Mr. Smith, took part. It was reprinted and is the final action of that body as now before this House.

Mr. Cullinan — What is the number?

Mr. Tanner — The reprint number is 376, and we have been discussing, gentlemen, not what was reported out by the Committee on Legislative Powers, but something that was rejected by that Committee, and it has been placed before you in exactly the same

manner as the emergency messages that you have been condemning have been placed before the Assembly. Now what we reported out of the Committee on Legislative Powers was another matter. It does not say anything about striking out the emergency message. It says, "in which case," that is, when the emergency message is sent in to the Legislature,— "in which case such bill may be passed after it shall have been printed and upon the desks of the members in its final form one legislative day."

Well, now, I followed the gentleman from Greene and the gentleman from New York and the gentleman from Albany absolutely on the proposition that nothing should be put before the Legislature without a fair opportunity to study into it, but I object to having this committee have something put before it that it has not been warned will come before it. The Committee on Legislative Powers is the only one that has studied into this. Now Brother Austin has referred to the emergency message as a little "dose of strychnine" that is applied to the Legislature once in a while, and when I hear the confessions of my Brother Smith and my Brother Hinman, I am not sure that a little dose of strychnine is not a good thing once in a while.

Mr. A. E. Smith — Do I understand that there has been an amendment offered to the proposition on the Calendar?

Mr. Tanner — The proposition on the Calendar, the gentleman by referring to his Calendar, will find is not what he has been talking about. It is not 78 at all, it is Print No. 376.

Mr. Austin — Yes, but I moved an amendment to 376, which restored it to the exact form that 78 was in, and that is what is before the members of this committee.

Mr. Tanner — I am calling the attention of the members of the Committee of the Whole to the provisions of 376, which was reported out.

Now, gentlemen, I do not know what was in the mind of the Convention of 1894 in putting in the emergency message. Undoubtedly it has given rise to abuse and I am not going to make an extended argument excepting to lay before this committee, before it takes any action, what was before the Committee on Legislative Powers after a full debate. That committee, by a very substantial — I think almost unanimous — vote, decided that if you had one legislative day in which this emergency message should be printed and on the desks of the members — and if that only means five minutes before twelve, I would say one calendar day, or if that is not enough, I would say two calendar days — but I do not think in taking out of this Constitution the emergency message which was put in in 1894, if you add to it the safety provision of two calendar days — I submit, Mr. Chairman, that it is worthy of the

very serious consideration of this Convention before you reject the proposal which was recommended by the Committee on Legislative Powers and accept Mr. Austin's original amendment.

Mr. L. M. Martin —As one of the members of the Committee on Legislative Powers, I think it should be clearly settled by this Convention at this time as to whether or not the committee is to be sustained in its action; not that I have any personal feeling in this matter, but on Mr. Austin's amendment there was a lengthy hearing before our committee, and the committee took this measure up, realizing that it was a serious matter, a serious bill, as to whether or not this great Convention should take from the Governor of the State the right to act in the case of a great public emergency. The mere fact that this has been abused by what some of my distinguished friends in this body call "so-called Governors" is not any reason why it is not an element of great good in the hands of good Governors. We men that considered this matter voted unanimously — I perhaps may be mistaken in saying that with regard to Mr. Smith; I do not recall — but as a committee, after deliberation, and after giving this matter thought and attention, we made up our minds that it was not safe, that it was not proper to take from the Governor of this State the power that has been so usefully exercised in many, many instances, but that we would correct the evil by providing that an emergency message bill should lay upon the table a day for the consideration of the legislative body, and that is the amendment that this committee reported, and that is the amendment that we intended that you should deliberate upon, and I criticize the introducer of this amendment, criticize him on the floor of this Convention, by attempting to report himself a bill to this Convention that has received an adverse vote in one of its committees.

Now just a word on the merits; just a suggestion. I sat in this House when an emergency message came in at night, with the clock turned back to twelve, and it was torn up and thrown into the waste basket. I sat in this House when an emergency message followed it advocating the same bill, and that bill was passed by 76 votes, and that bill revised the Tax Laws of the State of New York and placed over \$600,000,000 worth of taxable property upon the tax books that never had paid a dollar's worth of tax before that. And I say to you gentlemen that if there have been four hundred ineffectual measures recommended by the Governor, the keeping of that in the Constitution is worth the money in that one case that I have stated, and I think this Convention —

Mr. Quigg — Has not this power in the hands of the Governor been used widely or is it not susceptible of wide use as a club to compel members of the Legislature to vote as the Executive thinks they should?

Mr. L. M. Martin — Well, it was used, Mr. Quigg, on that occasion, to force the Republican organization to adopt that measure, if that is what you wish to know, and I have an idea, and I say, Sir, that I think the club in that case was a pretty good thing to have.

Now, I do not wish to further discuss this question, but I wish to say to this Convention that I think that when a committee has voted adversely on a proposition and has substituted another proposition, if you have any respect for the committees of this House, you should adopt the proposition suggested and not allow a member to amend it on the floor and go back to the proposition that has been repudiated by the committee itself.

Mr. A. E. Smith — I am convinced, after listening to the gentleman who just sat down and the question of the Congressman that, in order to get down to this, we have to go a little below the ground floor. I can see that there is a misunderstanding around the circle, at least there is on the part of the gentleman that just spoke, as to what an emergency message is. The emergency message would club nobody into voting for a bill. An emergency message is simply a printed form that contains but the few words, "I hereby certify that the public necessity requires the immediate passage of Assembly bill No. 390. Charles S. Whitman," or whatever the Governor's name may be. What the gentleman had in mind is a special message to the Legislature in which the Governor has a right to set forth his argument against the attitude of the Legislature, and if you have reference to the Ford Franchise Tax Bill, on which President Roosevelt sent in a stirring message, that was not an emergency message. Why, an emergency message is never read. What does the Speaker say? The Speaker says, "The clerk will read the Governor's message." "Blurb — blurb — necessity, immediate passage; blurb — blurb." "Call the roll." Now that is the emergency message. A special message to the Legislature is an entirely different thing. That is, as I said a moment ago, the means that is put into the hands of the Governor, to put his argument before the people of the State and before the Legislature, why certain bills should pass and why certain others should not.

My good brother member of the committee has not been quite as attentive as I thought he was. At the last meeting of the Committee on Powers and Duties of the Legislature, the committee was about to report the bill of another member that does away entirely with the emergency message, when we suddenly discovered that we had, at an earlier date, reported Mr. Austin's proposed amendment, amended. The committee had simply changed its mind from the day that it reported the Austin bill, saying it

should be one day on the calendar, and had come to the conclusion that there was no occasion at all for the emergency message, and, on the expressed request of the chairman himself, the other bill was not reported, but he said, if you remember as I do, that Mr. Austin, being the man that first proposed the entire abolition of the emergency message, should have the right to perfect his bill and put it the way he wanted it, and with that understanding we did not report the other bill, and it was at my suggestion —

Mr. Low — On the file is bill No. 737, reported by the Committee on Legislative Powers. On page 2 of that bill, the amendment is made cutting out the emergency message. It was referred back, I suppose. That was simply amended and referred back.

Mr. Wickersham — Mr. Chairman, I rise to an inquiry. No. 737 is not on the list of general orders.

The Chairman — It is not on general orders.

Mr. A. E. Smith — That is something that has been introduced.

Mr. Low — I see, and referred back to the Committee.

Mr. J. G. Saxe — Mr. Chairman, that is an amendment to the general article, introduced by the Committee, and is not germane to this subject at all.

Mr. A. E. Smith — I refuse to believe that No. 737, after casually glancing at it, has enough life in it to be debated to-night. Now that is the history of the amendment, and my good friend from New York, Mr. Tanner, should not have felt any extraordinary amusement over the fact that we were not acting properly in debating the proposed amendment.

Mr. L. M. Martin — Is the gentleman aware that No. 376 on the calendar before the Convention provides for the very thing that I suggested, that the bill lay on the table for one day?

Mr. A. E. Smith — Yes, sir; I am aware of that fact. Let us have it understood — 376 was reported by the Committee on Legislative Powers. After its report of that bill, it undertook to report another bill by some other delegate, which was exactly like the original Austin bill, and, rather than do that, we said that it would be better to have Mr. Austin amend his bill by substituting the original print, which does away entirely with the emergency message, and that is exactly what he is doing to-night, attempting to amend by substitution, and that is what we are all arguing for, and that is the thing we all want, and the only thing to do is to adopt the amendment.

Mr. L. M. Martin — Will the gentleman from New York yield for another question? I ask him in what room, in what building, and where, all this happened?

Mr. A. E. Smith — Why, it happened in the room assigned to

the Committee on Legislative Powers at the meeting last Thursday.

Mr. Tanner — I do not wish to reflect unduly upon Mr. Austin but I was not present at any such meeting and never heard of any such thing.

Mr. L. M. Martin — Neither was I.

Mr. Tanner — It would seem in the future, if we are going to have proposals reported out, when we have changed it more or less and don't know about it, that we had better have the original resolution recommitted, so when we come before the House, this House will have the benefit of a real report of a Committee, and if I have done injustice to Mr. Austin, I apologize, but I was not present at any meeting when any such thing took place.

Mr. A. E. Smith — Mr. Chairman, I desire to back up what the gentleman from New York, Mr. Tanner, says; he was not present.

Mr. Wickersham — Inasmuch as Mr. Barnes, the Chairman of the Committee on Legislative Powers, is not present and is kept away by indisposition, I move the further consideration of this matter be postponed, and that when the committee rises it report progress and ask for leave to sit again.

The Chairman — The question is upon the motion of the gentleman from New York. All in favor will say Aye, opposed, if any, No. The Chair is in doubt.

Mr. Wickersham — Mr. Chairman, in making the motion that I did, I have simply presented the request of Mr. Barnes, that in case of any serious question arising with respect to any matters reported by his committee that it stand over, owing to his indisposition, and I trust and hope that that request will be granted.

The Chairman — The Chair will put the motion once more. All in favor of Mr. Wickersham's motion will say Aye, opposed, if any, No. The motion seems to be and is carried.

The Secretary — No. 699, General Order No. 7, by Mr. R. B. Smith.

Mr. R. B. Smith — The purpose of this amendment is, first, to provide that the Speaker of the Assembly shall be a constitutional officer. He is referred to as a member of constitutional boards in other sections of the Constitution, but peculiarly enough, while a provision is made for his being a member of these boards, no provision is made directly for the election of the Speaker of the Assembly. That would appear to be an oversight, not intentional, in the Constitution, and I can imagine no reason for his being left out.

The other propositions are ones on which doubt has arisen, and which have been a subject of discussion due to the fact of the recent impeachment proceedings of a Governor of the State of

New York. The Constitution provides that when there is a vacancy in the office of Governor, that the Lieutenant-Governor shall be Governor for the residue of the term.

If there be a vacancy in the office of Lieutenant-Governor, the succession is in the temporary president of the Senate, but whether he is Lieutenant-Governor for the residue of the term or not, is in doubt.

The same question arises in relation to the other officers in succession, as to whether they are acting or real officers, and that becomes important in view of the fact that they may be ex-officio members of certain constitutional boards, such as Commissioners of the Land Office and the Canal Fund, and, by statute, members of the Board of Trustees of Public Buildings, and it seems to me that should be defined.

Furthermore, a question arose during the illness of Speaker Nixon, as to whether a temporary presiding officer, who can be designated by the Speaker for only a few days, could certify to the passage of bills.

It seems to me that that should be provided for, and if the Speaker is, as he should be, made a constitutional officer, power should be given to the Assembly to choose a temporary Speaker who will have power to certify to the passage of bills.

The purpose of the bill, as I said, is one which would make definite and certain and clarify the succession as to those officers.

The Chairman — Does the gentleman make a motion in relation to this bill? Is there any further discussion on it?

Mr. Brackett — I suppose the motion is pending, if I am not mistaken, that when the Committee rise it report the bill favorably. That motion has been made, has it not?

The Chairman — It has not. Is it now made?

Mr. Brackett — Yes, I will make it.

The Chairman — The motion is that when the Committee rise it report this bill favorably and ask that it be placed on the order of third reading. All in favor of the motion say Aye, contrary, if any, No. Carried.

Mr. Wickersham — Mr. Chairman, I move the Committee rise and report progress and ask leave to sit again.

The Chairman — The gentleman from New York moves that the Committee do now arise, report progress and ask leave to sit again. All in favor of that motion say Aye, contrary, if any, No. Carried.

(The President resumed the Chair.)

Mr. Whipple — The Committee of the Whole have had under consideration three several propositions to amend the Constitution, on the General Orders Calendar, numbers 2, 4, and 7. On

numbers 2 and 4, they have gone through the same and made some progress and they ask leave to sit again.

On number 7, they have gone through the same, approved of it, and ask that it be placed on the order of third reading, and I present the following written report:

The President — The question is upon granting the Committee of the Whole leave to sit again on General Order No. 2, upon the Calendar of General Orders. All in favor of granting leave will say Aye, contrary No. The leave is granted.

The question is upon granting leave to the Committee to sit again on the bill, General Order No. 4. All in favor of granting leave will say Aye, contrary No. The leave is granted.

The question is upon agreeing to the report of the Committee of the Whole, upon the bill, General Order No. 7, Introductory Number 290, Printed Number 699, to amend Section 10 of Article III of the Constitution. Are you ready for the question upon agreeing to the report of the Committee? All in favor of agreeing to the report of the Committee of the Whole say Aye, contrary No. The Ayes have it and the report is agreed to and the bill, the Proposed Amendment to the Constitution, will go to the Committee on Revision.

Is there any further business to come before the Convention?

Has the Secretary any announcements to be made.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:35 p. m., the Convention adjourned to meet at 10 o'clock a. m., Tuesday, July 13, 1915.

TUESDAY, JULY 13, 1915

The President — The Convention will please be in order.

Prayer will be offered by the Rev. Mr. H. Dykheizen.

The Rev. Mr. H. Dykheizen — Let us pray. Almighty God and Father of Our Lord and Saviour, Jesus Christ, unto Thee we come nigh this morning as we enter upon the duties of another day, and we ask Thy divine guidance in the performance of all the manifold duties which come before us. We do thank Thee for this beautiful day, and grant that it may be inspiring unto us. We do thank Thee that Thou hast again called us unto Thy service. May we do it diligently. Look, we pray Thee, with favor upon this body of men. Lead them in the true way as they are called upon to deal with things fundamental. Grant

that they may realize that the eyes of God are upon them and also the eyes of a great and expectant people, asking them to represent their many interests. Bless the State that is represented here. We pray Thee that thou wilt bless our nation of which it makes a part, and wilt Thou grant, Lord, Thy divine wisdom and guidance unto those in authority in this critical moment, and may the outcome be unto Thine honor and glory and for the welfare of our country and our people. We ask it in Christ's name. Amen.

The President — Are there any amendments to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from the common council of the city of Albany, which will be referred to the Committee on Cities.

Any further memorials or petitions?

Communications from the Governor and Other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Tanner — I offer the following resolution and move its adoption.

The Secretary — By Mr. Tanner: Resolved, That when the Convention adjourns to-day it adjourn as an expression of sympathy for Delegate Rush Rhees, of the 45th District, on the death of his mother, which took place during the past week;

And it is further Resolved, That the adoption of this resolution be signified by a rising vote.

The President — All who are in favor of the resolution which has just been offered and read will signify it by rising.

The gentlemen will be seated.

The resolution is unanimously adopted.

The President — Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The President — Three Proposed General Orders having been moved, the Convention will go into the Committee of the Whole for the consideration of the calendar.

The President — Mr. Clinton will take the Chair in the Committee of the Whole.

Mr. Stimson — Mr. President, may I ask for information,

which were the General Order numbers which were moved? I could not hear them.

The President — Immediately on the organization of the committee the Secretary will advise.

(Mr. Clinton takes the Chair.)

The Chairman — The Convention is now in Committee of the Whole on general orders.

General Order No. 3, introductory No. 214, print No. 215, by Mr. J. G. Saxe, has been moved.

By request, the Secretary will read the numbers of the bills which have been moved.

The Secretary — General Order No. 3, by Mr. J. G. Saxe; General Order No. 8, by Mr. R. B. Smith; General Order No. 9, by Mr. Tanner; General Order No. 11, by Mr. R. B. Smith.

Mr. Wickersham — I understand that Mr. Saxe's proposal has again been amended and the amendment which is printed is on the desks this morning. Nobody has seen it until just now and it does seem to me that before we debate on this, which is an important question, we ought to have more time to consider the proposals which are before us, especially if we all have committee meetings in addition, and I move that we suspend further proceeding with this calendar, report progress and ask for leave to sit again.

The Chairman — Is the delegate's motion to report progress on all these amendments?

Mr. Wickersham — On all three, and to ask leave to sit again and to adjourn the meeting of the committee.

The Chairman — It is moved by Mr. Wickersham that the Committee of the Whole suspend the consideration of those resolutions for the amendment of the Constitution on general orders — I understand that that includes all of them — report progress and ask leave to sit again. Is there any objection? There being no objection, all those in favor will please say Aye, contrary No. It is carried.

(The President resumes the Chair.)

Mr. Clinton — From the Committee of the Whole, I desire to make the following report.

The Secretary — The Convention resolved itself into a Committee of the Whole and proceeded to the consideration of general orders being Proposed Amendment entitled as follows:

No. 738, by Mr. J. G. Saxe. After some time spent the President resumed the Chair and Mr. Clinton from the said committee reported progress and asks leave to sit again.

The President — The question is shall the Committee of the Whole have leave to sit again? All in favor will say Aye, contrary No. The Ayes have it and the leave is granted.

What is the further pleasure of the Convention?

The Secretary will make announcements.

The President — The Chair is requested to inform the Convention that the State Law Library will be open hereafter during the evening as well as during the daytime for the use of the members of the Convention.

Mr. Wickersham — May I ask leave to introduce, out of order, this resolution, which I supposed would be introduced by the Committee on Contingent Expenses; but I offer it and ask that it be referred to that Committee.

The President — The Secretary will read the resolution for the information of the Convention.

The Secretary — Resolved, That Delancey Nicoll, Jr., be appointed an assistant clerk to the Committee on the Judiciary, without compensation.

Mr. Quigg — I ask unanimous consent for the present consideration of the resolution.

The President — Unanimous consent is asked to the present consideration of the resolution. Is there any objection? The Chair hears none. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Cullinan — This may be a little out of order, but I desire to make a motion after my statement. One of the most worthy women of the century resides in the county of Oswego, and the first woman in the world that was ever a surgeon in an army, and wears a medal for valor granted her by the Congress of the United States. I refer to Dr. Mary E. Walker, and I desire that she have the privilege of addressing this Convention at some future time, and I make a motion to that effect.

Mr. Wickersham — I move that it be referred to the Committee on Rules.

The President — Is there any objection to the making of the motion? The Chair hears none. The motion is referred to the Committee on Rules.

Mr. Wickersham — I move we adjourn, Mr. President.

The President — It is moved that the Convention do now adjourn. All in favor say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:20 a. m., the Convention adjourned to meet at 10 o'clock a. m., Wednesday, July 14, 1915.

WEDNESDAY, JULY 14, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, Our Heavenly Father, we give Thee thanks for Thy protecting care over us during the night watches, and we humbly ask Thy guidance and blessing as we enter upon the duties of this new day. Help us to realize the sacredness of life and the worth of its opportunities and the seriousness of its calls. Lift us into nobleness that we may meet the work of life in a spirit of earnestness, and whether we labor in obscure places seen only by the few, or in the glare of publicity where many eyes are upon us, may we put the full measure of our strength and skill into our tasks; and grant unto us that joy which comes with the consciousness of being co-workers with Thee in the eternal issues of justice and human welfare and universal peace. Grant unto each one of us, we beseech Thee, the steadfast heart which cannot be dragged down by any unworthy motive, and the unconquered heart which cannot be worn out by any tribulation or trial, and the upright heart which cannot be turned aside from the paths of righteousness by any unworthy purpose. And grant that in all our labors we may have the inspirations of Thy good spirit and that all our work may be crowned with a generous measure of substantial success. For Thy Name's sake. Amen.

The President — Are there any amendments to the Journal as printed and distributed? There being no amendments the Journal stands approved as printed.

Presentation of memorials and petitions.

Mr. Coles — Mr. President, I offer the following memorial from the Genesee Yearly Meeting of Friends.

The President — What is Mr. Coles' suggestion as to the reference?

Mr. Coles — I suppose that should be referred to the Committee on Military Affairs; others of the same character have been sent to that committee.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Quigg — I move when the Convention adjourns on Friday, it shall adjourn until Monday at 8:30 p. m.

I suppose my motion to be in order for discussion at this time, although I shall not ask action upon it until Friday —

Mr. Westwood — The members back in this part of the house cannot hear Mr. Quigg, and I am sure that it is a matter that we would like to hear.

Mr. Quigg — Mr. President, Saturday last when the Convention assembled, we had, I should say, not to exceed twenty members present. I gave notice that if the Convention was bound under our rules to assemble on Saturday, I should make a point of order and call for the proceedings that would naturally follow from that point.

Now, I do not want to inconvenience members, and I do not want to be inconvenienced myself unnecessarily. When we assembled on Saturday and you took the Chair, sir, and introduced the Chaplain, and the Chaplain solemnly offered prayer that the result of our deliberations that day might be wise and to the advantage of the people, and Mr. Wickersham got up and moved that the Convention do now adjourn, that might be thought, by the cynical, to have been a direct answer to the prayer.

But to those of us who were in the room, that meant very great inconvenience. Now, Mr. A. E. Smith, whose habit of candor must have impressed us all, told me yesterday, if I understood him, that the rule of the Assembly requiring meetings on Fridays was not expected to obtain attendance on Friday, but only to obtain attendance on Thursdays for committee work, and Thursday nights for committee work.

Now, it is very unfair to those of us who feel that under the binding force of the rule and our oaths we must come here and stay Saturdays. If there is no business to be done and we are merely sent here to keep people on Fridays, that does not seem fair.

I do not want to take the responsibility of offering a rule that changes the rules with regard to Saturdays, especially in view of the fact that Mr. Wiggins did offer it at the time and it was rejected. It is now moved merely that when the Convention adjourns on Friday, it shall adjourn until Monday at 8:30 p. m., and I will call up that motion on Friday, giving notice now to the gentlemen that if that motion is not adopted then, I shall call attention to the absence of a quorum on Saturday, if there is no quorum present, and call for the proceedings that follow in the proper way such a motion.

Mr. Wickersham — Mr. President, I take it this is a motion to suspend the rules?

Mr. Quigg — No, sir; if I moved that there were to be no sessions on Saturdays it would be a motion to suspend the rules, but if I move to adjourn to a day certain it is not a suspension of the rules.

The President — The motion will go over under the rule. The Clerk will continue the call.

Mr. Barnes — I regret my absence from the House the last two or three days, in view of the discussions which have taken

place; and in view of the debate upon Friday in relation to the report of the Committee on Legislative Powers on the proposal of Mr. Wickersham in relation to the establishment of parliamentary practice in the case of private and local bills. It is necessary therefore that I should make an explanation and, apparently from the record, a motion.

This proposal was debated at some length in the committee and by Mr. Wickersham. It was not thought, in view of the radical departure which it calls for from the present Constitution of the State, advisable to report it favorably. In other words the committee did not feel that it had sufficient information in its possession to advocate directly so complete a change from the present Constitution. It did feel, however, that the proposal in itself had such great merit that not to report it at all for the consideration of this body would be to put upon it the disapproval of the committee which the committee did not desire to record. We therefore took a procedure, familiar to everyone in legislative matters, of reporting the bill to the Convention for its consideration. I find by examining the record that no disposition was really made of the report and the calendar does not include the proposal made by Mr. Wickersham, printed No. 640. I therefore move, Mr. President, that the report of the Committee on Legislative Powers, in relation to bill No. 640, introduced by Mr. Wickersham, be referred to General Orders and take its place on the calendar.

Mr. Wickersham — Mr. President, I should like to say that when that matter came up on Friday, a motion was made that it be referred to the Committee on Cities. At that time, there was an apprehension that the bill as reported would affect the subject of legislation concerning cities, and I acquiesced in the suggestion, which was not, however, acted upon by the Convention, that the bill go to that committee. Subsequently, in considering the bill, I have determined to so amend it, to offer an amendment which will remove that consideration and I have spoken to Mr. Low regarding that, and I hope that the measure may go to General Orders so that we may there discuss it.

Mr. Low — In view of the Proposed Amendment which Mr. Wickersham intends to offer, if the bill goes to General Orders, I have no objection to that course being pursued.

The President — It is moved that bill No. 640 be referred to the Committee of the Whole. Is the Convention ready for the question? All in favor of the motion will say Aye, contrary No. The motion is agreed to, and the bill goes into General Orders.

Mr. Westwood — I introduced a proposal, introductory No. 667, contemplating the limitation of the number of bills which might be passed by the Legislature in any one calendar week, which was referred to the Committee on Legislative Powers. Mr.

Hinman introduced introductory No. 638, providing among other things that the Legislature meet during part of each month, which was referred to the Committee on Legislative Organization. Both measures were designed to reach some of the same evils, and in the natural order should have been referred to the same committee, but that was not done. Mr. Barnes, of the Committee on Legislative Powers, tells me that my proposal has been unanimously voted down in that committee. I understand from members of the Committee on Legislative Organization that Mr. Hinman's bill is being considered there now, and there was a hearing on it, and under all those circumstances it would occur to me as being fair to the general proposition which is sought to be reached by these measures that my proposal be referred to the Committee on Legislative Organization for its opinion, and I would like to ask unanimous consent that that be done.

Mr. Barnes — Mr. President, the Committee on Legislative Powers has no objection to Mr. Westwood securing another physician, and if he wishes to move to discharge the Committee on Legislative Powers, and have the bill referred to the Committee on Legislative Organization, we will be entirely content.

Mr. Westwood — On Mr. Barnes' suggestion, then, I would like to move that the Committee on Legislative Powers be discharged from further consideration of introductory No. 667, and that it be referred to the Committee on Legislative Organization.

The President — Mr. Westwood moves that the Committee on Legislative Powers be discharged from further consideration of bill introductory No. 667, and that the bill be referred to the Committee on Legislative Organization. Is the Convention ready for the question upon the motion? All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Reports of standing committees.

Mr. Tanner — On behalf of the Committee on Governor and Other State Officers, I submit the following report.

The Secretary — Mr. Tanner, from the Committee on Governor and Other State Officers, to which was referred proposed amendment introduced by Mr. Tanner, No. 365, introductory No. 360, entitled: Proposed Constitutional Amendment, To amend Section 9 of Article IV of the Constitution, by extending the time in which the Governor may approve bills after adjournment, reported in favor of the passage of the same with the following amendment: Page 2, line 14, strike out "sixty" and insert "forty-five".

The President — Under the existing rule, this report will be referred to the Committee of the Whole, unless some other disposition is made by the Convention. Is there any motion to be

made regarding the report? No other disposition being proposed, the report goes to the Committee of the Whole.

Mr. S. K. Phillips — The Committee on Contingent Expenses makes the following report, and I move the adoption of the resolution therein contained.

The Secretary — By Mr. S. K. Phillips. The Committee on Contingent Expenses reports back the resolution introduced by Mr. R. B. Smith, July 8th, hereto annexed, with the recommendation that it be adopted.

By Mr. R. B. Smith — Resolved, That Minnie C. Hullar, telephone operator, be granted a leave of absence with pay on account of illness contracted in the service of the State.

The President — Is the Convention ready for the question on the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. J. L. O'Brian — The Committee on Rules submits the following.

The President — If Mr. O'Brian will kindly withdraw his offer, as there is a further resolution by Mr. Phillips.

The Secretary — By Mr. S. K. Phillips. The Committee on Contingent Expenses reports back the resolution offered by Mr. Wiggins, July 10th, hereto annexed, with the recommendation that it be adopted.

By Mr. Wiggins — Resolved, That Henry R. Kenney be appointed a messenger at a salary of \$3 per day from July 1st, in place of Lee V. Gardner transferred.

The President — Is the Convention ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The Secretary — The Committee on Rules recommends the adoption of the following:

Resolved, That the Secretary forthwith cause to be printed as a document the rules of this Convention as amended to this date, and that he cause to be printed in convenient size 500 copies of said rules, bound in flexible covers, for the use of this Convention.

Mr. O'Brian — I move the adoption of the resolution.

The President — Is the Convention ready for the question upon the resolution?

Mr. Westwood — If they are to be bound in flexible covers and in a sort of permanent form, should they not have an index?

Mr. O'Brian — Mr. President, that will entail extra labor on somebody. The idea of the committee was simply to put them into convenient form for the pockets of members. We learned we could do that without going to any considerable expense and it was simply for the purpose of having a handy form or having it in handy form for the members to use.

Mr. Westwood — May I say to the member from the Committee on Rules that I prepared such an index for myself before the Convention met and I would be glad to turn it over to Mr. O'Brian, as I think that something of that sort ought to be done to facilitate reference to the rules.

The President — Any further remarks upon the resolution?

All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Any further reports of standing committees?

Mr. J. L. O'Brian — Mr. President, I offer the following resolution.

The Secretary — From the Committee on Rules. Resolved, That the resignation of Thomas C. Eipper as Clerk to the Committee on Cities be accepted, to take effect this day, and that Frederick W. Myers be appointed as Clerk in his stead at the compensation of \$10 per day.

Mr. O'Brian — Mr. President, I move the adoption of the resolution.

The President — All in favor of the resolution say Aye, contrary No. It is agreed to.

Are there any further reports of standing committees?

Reports of select committees.

Third reading.

Unfinished business in general orders.

Special orders.

General orders. The Secretary will call the calendar.

Mr. Wickersham — Mr. President, I move that the calling of the calendar of General Orders be dispensed with for to-day. All of the committees are extremely busy just now, and I think the time can be more profitably spent in committee work than in proceeding to-day to the discussion of general orders.

The President — Is the Convention ready for the question on the motion to suspend the call of the calendar for to-day? All in favor of the motion will say Aye, contrary No. It is agreed to.

The Secretary will make announcements.

Mr. Wickersham — I move we adjourn, Mr. President.

The President — All in favor will say Aye, contrary No. The motion is agreed to and the Convention is adjourned until tomorrow morning at 10 o'clock.

Whereupon, at 10:30 a. m., the Convention adjourned to meet at 10 o'clock a. m., Thursday, July 15, 1915.

THURSDAY, JULY 15, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. James J. Halliday.

The Rev. Mr. James J. Halliday — Let us pray. Almighty God, Thou who hast been the dwelling place of men in all generations, their counsel, their strength, their inspiration, we bow before Thee this morning, humbly to acknowledge our dependence upon Thee and to implore the guidance of Thy spirit that we may meet worthily the responsibilities which Thou hast placed upon us. Grant unto us, we beseech Thee, the wisdom, the patience and the courage essential to the realization of the truest ideals. May the all-controlling purpose of Thy servants in this Convention here assembled be the rendering of the largest possible services to the people of this great commonwealth, and through their deliberations and enactments, may the cause of truth and justice and good will among men be advanced. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments the Journal stands approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the Secretary of State in response to a resolution of the Convention. The communication will be referred to the Committee on the Judiciary.

Also a communication from the Commissioner of Records, county of New York, which will be referred to the Committee on the Judiciary.

The Chair also lays before the Convention a communication from the Secretary of State relating to Amendments to the Constitution proposed by the Legislature, which will be referred to the Committee on Amendments of the Constitution, with copies to the Committee on the Judiciary and State Finances.

Also a communication from the Secretary to the Mayor of the city of Albany, which will be referred to the Committee on Cities.

Also a communication from the common council of the city of Schenectady, same reference; also communication from the village of Mechanicsville, same reference.

Also a communication from Frank W. Grinnell, which will be referred to the Committee on Legislative Powers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Berri — I would ask to be excused from attendance next Saturday.

The President — Mr. Berri asks to be excused from attendance on Saturday. All in favor of granting the excuse will say Aye, contrary No. The Ayes have it, and the excuse is granted.

Mr. Parsons — On Tuesday the Court of Appeals rendered an opinion sustaining the constitutionality of the present Workmen's Compensation Law, and in it they stated an expression of the meaning of police power. It will be some time before that opinion is available as a printed document, and after conferring with a number of members I find there is a general opinion that we should have it before us as a document. I therefore offer the following resolution and move its adoption.

The President — Mr. Parsons asks immediate consideration of the resolution, which the Secretary will read.

The Secretary — By Mr. Parsons: Resolved, That the opinion of the Court of Appeals, rendered July 13, 1915, in the matter of the Claim of Marie Jensen for Compensation under the Workmen's Compensation Law against the Southern Pacific Company, employer and self-insurer, be printed as a document.

The President — Is there objection to the present consideration of the resolution? The resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Quigg — Mr. President, is it now in order to call up my motion of yesterday, that when the Convention adjourn on Friday, it adjourn until Monday at 8:30 o'clock p. m.?

The President — It is in order. The Secretary will report the resolution to the Convention.

The Secretary — Mr. Quigg moved that when the Convention adjourn on Friday, July 16th, it shall be to meet on Monday, July 19th, at 8:30 o'clock p. m.

Mr. Wickersham — Mr. President, I hope that motion will not prevail. Only a week ago we adopted as one of our rules a provision that the Convention should meet on Monday evening at 8:30 o'clock, and on every other day of the week at 10 o'clock. Now, I think it would be rather foolish, one week later, to adjourn over Saturday. It is true that last Saturday we had a very small attendance here, due in large part to the fact that it was the week of the Fourth of July and a great many members had made arrangements to be away over that week-end, without knowing that the Convention would sit on Saturday morning. The advantage of the Saturday morning session is that reports which the committees may choose to bring in on Saturday morning can go to General Orders and be printed, or be printed and ready for the information of the members on Monday. The existence of a session on Saturday morning also serves to keep members here in attendance at committee meetings.

Mr. President, all of the standing committees of this body are hard at work this week digesting the information that has been collected during the past two months, as a result of the very full and comprehensive hearings that they have granted to all classes of the public who had anything to say to them respecting the various propositions submitted to them. They are sitting, to my knowledge, six and eight hours a day and sitting late into the night, and they are performing their duties conscientiously and thoroughly and with high regard to the public obligations resting upon them. I do not think, Mr. President, they need any instruction as to their duties. I think they understand them thoroughly, and are prepared to perform them; and they have adopted a rule with the intention of conforming to it as far as necessary to the performance of the duties they have assumed, and I therefore oppose the granting of this motion.

Mr. Quigg — As far as the reports of committees are concerned being presented here when there is no quorum, and advanced upon the calendar, it is undesirable that that should be done. The quorum ought to be present to know what business is going on and a point of no quorum can adjourn the Convention immediately. So that even that could not be done if any single member present objected to it.

Now, I consider it my duty to stay here on Saturday, if we are going to have a session, just as much as the Chair does, or as Mr. Wickersham does, but I do not want to have to stay here simply in order to serve as a convenience for other members getting away. We are here to-day with the full knowledge that this Convention is going to adjourn in about five minutes. We have got a calendar. We have adjourned two days already without doing any business for the alleged convenience of committees, although, when you hear the announcements read, you will see very few that say they are going to hold a meeting on the immediate adjournment of the Convention. There were, as I remember, only two yesterday, and one of them a subcommittee. They met in the afternoon. There is no reason why we should be detained here on Saturday in order that the committees might meet. Let them meet. Let them do their duties. That does not require those of us — should not require those of us who have no committee meetings, who have done our work, who have completed our work, to stay here. Of course, there is an immense amount of business before the Committee on the Judiciary; before the Committee on the Bill of Rights, and no doubt other committees. Let them go ahead and do their work. That is no reason for forcing those of us who wish to perform our oaths conscientiously to remain here when there is a session and not exercise our own judgment on whether anything is going to come up, is likely to

come up or not, when we do not know. That is no reason why we should be forced to stay here on Saturday.

The President — Are you ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The Noes appear to have it. The Noes have it and the resolution is not agreed to.

The Secretary will continue the call.

Mr. Betts — I offer the following.

The Secretary — By Mr. Betts: Resolved, That 500 copies of the hearings on capital punishment before the Bill of Rights Committee be printed as a document for the use of the members of this Convention.

Mr. Betts — The proposal to abolish capital punishment, which is before this Convention, is one of the most important propositions before the Convention. It is the duty of this Convention to consider fundamental principles. I know of nothing more fundamental than human life. I know of nothing more wicked than the taking of human life unnecessarily. There is a strong and growing sentiment in this State, and I believe it is a majority sentiment in favor of abolishing capital punishment. We had a very interesting and illuminating discussion of this subject before the Bill of Rights Committee. Distinguished speakers were present and discussed the subject in a fair, candid and broad-minded manner. Such speakers as Hon. W. Bourke Cockran of New York City; Hon. Thomas Mott Osborne, warden of Sing Sing prison; Rev. Jacob Goldstein, chaplain of Sing Sing and the Toombs; Hon. Charles Foster Peabody, of the Anti-Capital Punishment Society of the State; Dr. William O'Sullivan, president of the American Humane Society, together with other speakers, discussed this question. In view of the fact that this is such an important question, of vital, Statewide interest, I believe that every member will be glad to have an opportunity to inform himself upon this subject. All the arguments, all the facts and all the statistics should be made available for the use of every member of this Convention, to the end that this question may be discussed and decided upon the merits. That is the reason, Mr. President, that I offer this resolution and hope that it will be adopted. Capital punishment is a relic of barbarism. It has been bequeathed to us by a darker and more ignorant age. It has been bequeathed to us by the brutal instincts of a savage ancestry. I believe that religion, philosophy and enlightened statesmanship, as well as the best interests of the State and of society, demand the abolition of capital punishment. The intelligent, thinking, humane citizens of this State are watching this Convention and hoping that it will remove this poisonous cancer from the fair face of our civilization.

Mr. Wickersham — Mr. President, I move that it be referred to the Committee on Library and Information.

Mr. Betts — Mr. President, I think it would be proper to refer it to the Committee on Contingent Expenses.

Mr. Mereness — Mr. President, does not the question of printing debates and proceedings at a hearing before a committee go to the Committee on Printing, as a matter of course, under the standing rule? There is a standing rule that requires matters of this kind to go to the Committee on Printing, as I understand it.

Mr. Betts — In view of the fact that this carries with it an expense, I thought perhaps under the rules it would be referred to the Committee on Contingent Expenses with leave to print, but I would be glad to have it referred to the Committee on Printing, if that is permissible under the rules.

Mr. Berri — As two members of the Printing Committee have asked to have it referred to the Committee on Printing, and as Mr. Betts is the mover of this resolution, and also a member of the Printing Committee, why can it not be referred to the Committee on Contingent Expenses and the Committee on Printing?

The President — There appears to be doubt as to which committee this might be referred to. If there is no objection, the Chair will refer this to the Committee on Contingent Expenses.

Mr. President — Reports of standing committees.

Mr. Cullinan — A report from the Committee on Suffrage.

Mr. Brackett — I rise to a point of personal comfort. I am very anxious to hear this report, but owing to the uproar, it is almost impossible to hear anything.

The President — The gentleman's point is well taken. In a few minutes, members are likely to be inquiring as to what is going on. There is so much private conversation that the conduct of business is hard. The Secretary will read the report.

The Secretary — Mr. Cullinan, from the Committee on Suffrage, to which was referred Proposed Amendment introduced by Mr. Marshall (No. 144, Int. No. 144), entitled "Proposed Constitutional Amendment, to amend Article XIV of the Constitution, by making provision for the vote by which an amendment to the Constitution shall be adopted, whether submitted by the Legislature or by a Constitutional Convention, by requiring the question as to whether a convention shall be held to be submitted at a general election and amendments to the Constitution to be submitted at a general election, by permitting the validity of an election on a question submitted and the determination of the result of such election to be contested by any elector in an action brought in the Supreme Court, and by making provision with

respect to amendments coincidentally submitted by a convention and the Legislature”;

Mr. Franchot (No. 357, Int. No. 353), entitled “Proposed Constitutional Amendment, to amend Section 1 of Article II of the Constitution, by providing that in the event of the approval by the people at the general election in the year 1915 of the amendment to said section proposed by the Legislature, granting the right of suffrage to women, the said Section 1 of Article II shall be amended as set forth in the said amendment proposed by the Legislature”;

Mr. Franchot (No. 679, Int. No. 663), entitled “Proposed Constitutional Amendment, to amend Section 1 of Article II of the Constitution, by providing that in the event of the approval by the people at the general election in the year 1915 of the amendment to said section proposed by the Legislature, granting the right of suffrage to women, the said Section 1 of Article II shall be amended as set forth in the said amendment proposed by the Legislature.”

Mr. Parsons, Document No. 5, entitled “Proposed Resolution in Regard to Woman Suffrage,” reported in favor of the passage of Mr. Marshall’s amendment (No. 144, Int. No. 144), with the following amendments:

By Mr. Marshall:

PROPOSED CONSTITUTIONAL AMENDMENT

To amend Section 3 of Article XIV of the Constitution, by making provision with respect to amendments coincidentally submitted by a Convention and the Legislature.

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Section 3 of Article XIV of the Constitution is hereby re-numbered Section 4 and amended to read as follows:

§ [3] 4. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the Legislature, coincidentally submitted to the people for approval [at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election,] shall, if approved, be deemed to supersede the amendment so proposed by the Legislature[.]; *provided, however, that, if at the general election held in the year one thousand nine hundred and fifteen, a majority of the electors voting thereon, shall approve and ratify the amendment to Section one of Article two of the Constitution now in force, heretofore proposed by the Legislature, Section one*

of Article two of this Constitution shall be deemed thereby amended so as to embody therein the new matter contained in said proposed amendment so approved.

The President — The Proposed Amendment will be referred to the Committee of the Whole unless other disposition is made by the Convention. Is there any motion to be made regarding the disposition of the report? There being no other disposition moved, the report and the amendment proposed will be referred to the Committee of the Whole and will go to General Orders.

The Secretary — Mr. Cullinan, from the Committee on Suffrage, to which was referred Proposed Amendment introduced by Mr. Steinbrink (No. 42, Int. No. 42), entitled "Proposed Constitutional Amendment, to amend Section 4 of Article II of the Constitution of the State of New York, so as to provide for absentee voting";

Mr. Nixon (No. 91, Int. No. 91), entitled "Proposed Constitutional Amendment, to amend Section 1 of Article II, providing privilege of suffrage for absent voters";

Mr. Wiggins (No. 127, Int. No. 127), entitled "Proposed Constitutional Amendment, to amend Section 4 of Article II of the Constitution of the State of New York";

Mr. A. E. Smith (No. 250, Int. No. 247), entitled "Proposed Constitutional Amendment, to amend Section 1 of Article II of the Constitution, relative to permitting certain railroad employees absent from their places of residence to vote at general elections";

Mr. Mann (No. 288, Int. No. 285), entitled "Proposed Constitutional Amendment, to amend Section 1 of Article II of the Constitution, relative to absent electors"; reported in favor of the passage of the following substitute:

Introduced by the Committee on Suffrage:

PROPOSED CONSTITUTIONAL AMENDMENT

To amend Article II of the Constitution, by adding thereto a new section in relation to absentee registration by federal employees, commercial travelers or those regularly employed on railroad trains.

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Article II of the Constitution is hereby amended by adding a new section to read as follows:

§ —. *The Legislature shall provide for the registration without personal appearance of citizens entitled to vote, who are federal employees or commercial travelers, or are regularly employed*

on railroad trains, and who shall have been absent from the county in which they reside on the day or days designated for registration.

The President — The Proposed Amendment will be referred to the Committee of the Whole, unless other disposition is made. Is there any other disposition moved? There being no other disposition, the Proposed Amendment will be referred to the Committee of the Whole.

The Secretary — Mr. Cullinan, from the Committee on Suffrage, to which was referred Proposed Amendment introduced by Mr. J. G. Saxe (No. 729, Int. No. 4), entitled "Proposed Constitutional Amendment, to amend Section 4 of Article II of the Constitution, in respect to the enactment of election and registration laws," reported in favor of the passage of the same, without amendment.

The President — Is there any other disposition of the Proposed Amendment desired by the Convention?

Mr. Cullinan — Mr. President, I would like to have the bill read for the information of the House, that and the bill following, if there is no objection.

The President — The Clerk will read the Proposed Amendment.

The Secretary — By Mr. J. G. Saxe:

PROPOSED CONSTITUTIONAL AMENDMENT

To amend Section 4 of Article II of the Constitution, in respect to the enactment of election and registration laws.

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Section four of Article two of the Constitution is hereby amended so as to read as follows:

Registration and election laws to be passed. Laws shall be made regulating nominations and general and special elections; for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established; and for the registration of voters. Party nominations for elective offices to be filled by the voters of the entire state and for all elective judicial offices except to fill vacancies in nominations, shall be made by party conventions. Voters shall be registered annually; which registration shall be completed at least ten days before each general election. In cities and villages having five thousand inhabitants or more, according to the last preceding state enumeration of inhabitants, voters shall be registered upon personal

application only; but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters.

Mr. J. G. Saxe — Mr. President, in view of the fact that the Proposed Amendment has been read, I will say that this Proposed Amendment merely relates to State conventions and judicial nominations, and that the Committee had also reported a Proposed Amendment by Mr. Tierney, which will be read next, referring to all nominations, so that both may be in the Committee of the Whole, and both taken up in the Committee of the Whole, so that whatever view is favored in this Convention, it may be discussed and decided then.

The President — Is any motion made regarding the disposition of this report? There being no motion, the report is referred to the Committee of the Whole.

The Secretary — Mr. Cullinan, from the Committee on Suffrage, to which was referred Proposed Amendment introduced by Mr. Tierney (No. 105, Int. No. 105), entitled "Proposed Constitutional Amendment, to amend Section 4 of Article II of the Constitution, in relation to the enactment of election and registration laws," reported in favor of the passage of the same, with the following amendments:

On page 1, line 4, after word "made", insert in italics the words "regulating nominations and general and special elections", which now appear therein in Roman type. On line 7, strike out the words "state officers". Strike out all of lines 8, 9, 10, and 11 on page 1, and the new matter on page 2, line 1. Insert on page 1, line 7, after the words "nominations for" the following new matter, in italics: "elective offices to be filled by the voters of the entire state and for all elective judicial, congressional, senatorial, assembly, city, borough and county offices, except to fill vacancies in nominations, shall be made by party conventions. Voters shall be registered annually". On page 2, line 2, after the words "before each", insert in italics, the word "general".

The President — Is there any motion to be made as to the disposition of this report? The report goes to the Committee of the Whole.

Mr. Brackett — Mr. President, I submit the following report.

The Secretary — Proposed Constitutional Amendment, to amend Article III, Section 6, of the Constitution, in relation to the compensation and expenses of members of the Legislature.

The Committee reports favorably and recommends its passage.

The Secretary — Second reading. To amend Section 6 of

Article III of the Constitution, in relation to the compensation and expenses of members of the Legislature.

The President — This proposed amendment is reported as an original amendment by the Committee on Legislative Organization, with the recommendation that it pass. Having had two readings, the question is whether the Convention desires any other disposition of the proposed amendment than a reference to the Committee of the Whole. If no other disposition is moved, the reference will be to the Committee of the Whole.

Mr. Westwood — Mr. President, I wanted to have it read before it is referred.

Mr. Brackett — Mr. President, it is accompanied by two reports, majority and minority. They are not very long. I presume it will be best to read them.

The President — The Secretary will read the reports.

The Secretary — The Committee on Legislative Organization reports Proposed Constitutional Amendment, entitled "To amend section 6 of Article III of the Constitution, in relation to the compensation and expenses of members of the Legislature," and recommends that the same be referred to the Committee of the Whole.

The following reasons are presented as representing the views of the majority in support of said report:

The present rate of compensation for members of the Legislature was fixed by a Constitutional Amendment adopted November 3, 1874. Prior to that date, under the Constitution of 1846, it had been \$3 per day, limited to \$300 for the per diem, with mileage as at present. The Constitutional Convention of 1894 only continued the existing compensation. Legislators are, therefore, now serving for a compensation considered adequate by the people of the State forty-one years ago, and based on the conditions then existing. Since then the necessary cost of living has greatly increased, so that the purchasing power of a dollar then and now is essentially different. Salaries of other officers and employees of the State have from time to time been greatly increased. It is conceded, we think, that the present compensation of members of the Legislature is wholly inadequate, and that members give their time and service to the State at an actual loss. The Legislature is the most important department of the State, has the most important duties to perform relative to the management of affairs of the State, and its members are peculiarly the agents of the people for the performance of those duties. It is also generally conceded that the Legislature should be representative of all classes of citizens, rich and poor, exalted and humble. At the present rate of compensation it has become

practically impossible for a poor man to accept the office and properly attend to its duties, and particularly is it impossible for the laboring man whose absence not only prevents him from otherwise earning support for his family, but frequently results in his being compelled, after his period of service, to seek a new position. The Committee does not believe that the salary should be made so large as to make the position attractive from a merely money point of view, but it does believe that it should be sufficient to reasonably compensate for services of the member to the State, and prevent him from actual loss. The provision in the Proposed Amendment for mileage, the Committee believes to be not only fair, but that it will result in equalizing the burdens imposed upon members residing in different parts of the State. A majority of the Committee are convinced that the small increase in pay proposed by this amendment will result in very many more intelligent and well qualified persons aspiring to the position, and that the general result will be improvement in the general character and standing of the Legislature. Finally, the Committee is convinced that there is a general demand for a reasonable increase in such compensation, and that the increase proposed is reasonable and will meet the approval of the voters of the State. Voters are not unjust, and do not demand that their servants shall work for them at a loss. The vote given in 1911 for the amendment to increase the salary of Assemblymen to \$3,000 and of Senators to \$3,500, with mileage at 3 cents a mile, is no criterion. It is true that amendment was defeated, principally for the reason that nearly half the voters failed to express an opinion on the question; and it is significant that the entire seven amendments submitted that year all failed of passage. Undoubtedly the great objection to that amendment, if any, would be that it provided for actual mileage at three cents a mile, which gave the impression that there was an attempt to make money out of the mileage over its actual cost. Perhaps the strongest evidence of this general demand is the action taken by the New York State Federation of Labor, set forth in its memorial of June 8, 1915, which is printed as Document No. 17 of this Convention. Resolution No. 17 of said memorial is as follows:

“Resolved, with a view of having the members of the Legislature in a more independent position financially, this conference recommend to the Constitutional Convention the wisdom of raising the salaries of the members of the Legislature to an adequate amount.”

For the foregoing reasons, your Committee recommends the adoption of said amendment.

(Signed) JAMES P. LINDSAY,
For the Majority of the Committee.

To the Convention: With great respect for the opinion of our fellow members of the Committee on Legislative Organization, we feel constrained to dissent from the report of the committee recommending the raising of the salaries of members of the Legislature from \$1,500 a year as now established, to \$2,500.

Among others, these are our reasons for such dissent:

First: It is not a time favorable to the increase of official salaries. It should always be remembered that the expenses of the State are paid in part by persons whose incomes are smaller than the salaries of the majority of the public servants, to which payers any increase of taxation is burdensome. This time of financial stress should not be seized upon to increase such burden in the slightest degree if it is avoidable. It is avoidable here.

Second: We do not forget the claim that many salaries are now so large as to make the salary of legislators ridiculously small in comparison. Our reply is that such present disproportionately large salaries should be greatly reduced, rather than that any attempt be here made to grade the lower up to them.

The public service is no place in which to amass a fortune. It is one of the penalties of such service that the money returns therefor are, and must remain very moderate.

Third: There are two lines of reasoning with respect to salaries of those in the State service. One is that the larger salary will attract to such service a better and more efficient class of public servants; the other that such larger compensation will draw to it men who are willing to become professional politicians, with a chief view of drawing the salary regardless of the character of the service rendered.

We believe that the best service to the State in the Legislature is not rendered by the man devoting his whole time to political life and who is lured by the salary, but rather by those who, busy in their own affairs, are yet willing to sacrifice of their time in serving the public in places of honor, and who find much of their compensation for such service in the confidence and regard of the constituency electing them and in the satisfaction that comes from the consciousness of duty well performed. It must be borne in mind that the active duties of a member of the Legislature are not continuous, do not usually engage more than about a third of the year and that they are so distributed as to leave reasonable time for a man diligent in business to care somewhat for his private affairs, while still well serving the public. For these reasons, believing that the present compensation of \$1,500 a year for each legislator, while not large, is still sufficient to indemnify the average Senator or Member for his time rendered and

expense incurred in the public service, we present this minority report for the consideration of the Convention.

July 14, 1915.

(Signed) EDGAR T. BRACKETT,
LEMUEL E. QUIGG,
THOMAS A. KIRBY,
L. H. FORD.

Mr. Westwood — The Proposed Constitutional Amendment has not yet been read, Mr. President.

The President — The Secretary advises the Chair that he does not find the proposed amendment among the papers submitted. The report will be laid aside until the missing papers are obtained.

Mr. Cullinan — I would like to ask the gentleman from Saratoga, did your committee take into consideration the matter of raising the salary of the Speaker of the Assembly?

Mr. Brackett — Yes.

Mr. Cullinan — And no action was taken thereon?

Mr. Brackett — No favorable action.

Mr. Cullinan — Mr. President, at the appropriate time I will ask this House to permit me to introduce a resolution increasing the salary of the Speaker of the House to make it adequate for the services which he performs. He is, by statute, a member of the Land Board, of the Capitol Commission, and also of many other commissions of the State, and required to perform services here practically the whole year, and in line with the services performed by the Lieutenant-Governor of the State, who receives a salary of five thousand dollars. At the appropriate time I will ask this body to permit me to introduce an amendment covering that subject.

The President — The request is granted.

Mr. Brackett — There will not be the slightest objection on behalf of the Committee to any suggestion or any amendment that the gentleman or any other delegate sees fit to offer. Of course, I beg to remind the Delegate from Oswego that the Speaker may not always be from that county. May I, in the interest of saving time only, because I will send for and have the proposed amendment on the Clerk's desk as soon as possible — it relates simply to this: It raises the salary from \$1,500 to \$2,500. It proposes that the members of the Legislature shall have their actual expenses going to their homes and returning once each week. Those are the amendments that the bill proposes.

Mr. Cullinan — I would like to reply to the chairman, Mr. President, by saying that we raise other things in Oswego county besides Great Bear water.

Mr. Schurman — On behalf of the Chairman of the Committee on Legislative Powers, I beg to submit the following report.

Mr. Quigg — Mr. President, should there not be some disposition of the report that is before us?

The President — The preceding report will be laid aside until the missing paper can be produced.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred proposed amendment introduced by Mr. R. B. Smith (No. 594, Int. No. 579), entitled "Proposed Constitutional Amendment, to amend Section 16 of Article III of the Constitution, in relation to private and local bills," reported in favor of the passage of the same with the following amendments: Page 1, line 6, after the word "invalid", strike out the words "by reason", and insert the word "because"; page 1, line 7, before the word "years", strike out the word "five" and insert the word "twenty".

The President — Is there any motion to be made regarding the disposition of this proposed amendment? There being no motion made, the amendment will be referred to the Committee of the Whole.

Mr. Tanner — On behalf of the Committee on Governor and Other State Officers, I submit the following report.

The Secretary — Mr. Tanner, from the Committee on Governor and Other State Officers, to which was referred proposed amendment introduced by Mr. R. B. Smith (No. 392, Int. No. 385), entitled "Proposed Constitutional Amendment, to amend Sections 6 and 7 of Article IV of the Constitution, in relation to succession to the office of Governor," reported in favor of the passage of the same, with the following amendments: Page 2, line 1, omit "impeachment"; omit the word "or", and insert in the place thereof a comma; after the word "absence", insert "or the pendency of such impeachment". Page 2, line 8, omit bracket; line 10, after the period and before "If", insert a bracket. Page 2, line 22, after the word "Governor" and before the words "be for the residue of the term", insert "until the commencement of the political year next succeeding the first annual election at which a successor to the Governor can be chosen, and such successor shall thus be chosen." Page 2, line 26, omit the word "impeachment". Page 2, line 26, omit the word "or" and insert in the place thereof a comma. Page 3, line 1, after the word "absence", insert "or the pendency of such impeachment."

The President — Is the Convention ready to act upon this report? Is there any motion regarding the disposition of the report? Failing any other proposal, the report and the proposed amendment are referred to the Committee of the Whole.

Mr. S. K. Phillips — The Committee on Contingent Expenses makes the following report, and I move the adoption of the resolution therein contained.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to having the communication of the State Comptroller, in response to a resolution of the Convention, printed as a public document, as requested by the Committee on State Finances, reported in favor of the adoption of the following resolution: Resolved, That the document which is the answer of the State Comptroller to a resolution of this Convention asking for information relative to the sinking funds of the State of New York be printed as a document.

The President — All in favor of the resolution say Aye, contrary No. The resolution is agreed to.

Are there any further reports of Standing Committees?

Reports of Select Committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

Mr. Wickersham — Mr. President, I move the suspension of the call of General Orders, in order that the committees may proceed with their work.

The President — It is moved that the call of the Calendar be suspended. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Wickersham — I should like to give notice that I will make a similar motion to-morrow, in order that committees may have to-day and to-morrow clear, and all of Saturday possibly, to continue their work, and that I shall move the General Orders on Monday evening.

The President — The Secretary will make announcements.

The President — The Secretary will read the Proposed Amendment to the Constitution included in the report of the Committee on Legislative Organization, which was temporarily laid aside.

The Secretary —

PROPOSED CONSTITUTIONAL AMENDMENT

To amend Section 6 of Article III of the Constitution, in relation to the compensation and expenses of members of the Legislature.

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Section 6 of Article III of the Constitution is hereby amended to read as follows:

§ 6. Each member of the Legislature shall receive for his services an annual salary of two thousand five hundred dollars. The members of each House shall receive their traveling expenses necessarily incurred and actually paid in going to and returning from their places of meeting, on the most usual routes, but not oftener than once each week during any session of the Legislature, and such expenses shall be paid only on the verified vouchers of the member entitled thereto after audit by the Comptroller. Senators, when the Senate alone is convened in extraordinary session, or when serving as members of the Court for the Trial of Impeachments, and such members of the Assembly, not exceeding nine in number, as shall be appointed Managers of an impeachment, shall receive an additional allowance of ten dollars per day.

The Secretary — Second reading. To amend Section 6 of Article III of the Constitution, in relation to the compensation and expenses of members of the Legislature.

The President — Does the Convention desire any different disposition of this Proposed Amendment than reference to the Committee of the Whole?

Mr. Buxbaum — Mr. President, I wish to be recorded as one of the minority which made the report in opposition to the increase in the pay of legislators to \$2,500.

The President — The gentleman's statement will be entered upon the Record.

Is there any motion regarding the disposition of this Proposed Amendment? Failing any motion for other disposition, the Proposed Amendment and report are referred to the Committee of the Whole.

The Chair asks the attention of the Convention for a moment. The Chair is receiving continually communications from citizens regarding the business of the Convention, which involve or include requests for hearings before the Committees. It is evident, upon the announcements which are made by the Committees, that the period of hearings is substantially over, and in order that the officers of the Convention may be able to answer the communications which they receive, the Chair will ask the Chairmen of the Committees which are still ready to give hearings to communicate that fact to the Secretary or the President of the Convention. Otherwise the officers will feel justified in saying, and will say, to inquirers that the period of hearings is over, and that the Committees of the Convention are now engaged in the consideration of the subject-matter which is already before them. In view of the fact that the Convention has now arrived at the period of final committee consideration and preparation of reports, the Chair gives notice that on Monday next he will follow strictly the rule

regarding committee reports and direct the roll of committees to be called in their order, under Rule 15.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 11 a. m., the Convention adjourned, to meet at 10 o'clock a. m., Friday, July 16, 1915.

FRIDAY, JULY 16, 1915

Vice-President Schurman in the Chair.

The President — The Convention will please be in order. Prayer will be offered by Rev. James F. Halliday.

The Rev. Mr. Halliday — Let us pray. Almighty God, our Heavenly Father, who by Thy Holy Spirit hast inspired men in all generations with a longing to know Thy truth and to seek Thy righteousness, grant unto us, we pray Thee, in these times of peculiar responsibility, a deeper sense of our dependence upon Thee, the source of all wisdom, goodness and power, that in the deliberations of this day Thy thoughts may be our thoughts, Thy ways our ways, Thy work our work. For Thy Name's sake. Amen.

The President — Are there any corrections of the journal? There being no corrections, the journal stands approved as printed.

Presentation of memorials and petitions.

Mr. Quigg — I call the Chair's attention to the obvious absence of a quorum to do business. There seem to be about 50 members present. I think that 86 are a quorum. In the absence of a quorum I momentarily assume the functions of my friend, Mr. Wickersham, and move that when the Convention adjourns it adjourn to meet on Monday at 8:30 in the evening, intending thereafter to move that in the absence of a quorum the Convention do now adjourn.

Mr. Wickersham — Mr. President, I rise to a point of order. If there is no quorum present, the motion cannot be entertained.

Mr. Quigg — I move we do now adjourn.

Mr. Wickersham — The motion cannot be entertained. I ask that the roll be called.

Mr. Quigg — The motion is always in order.

Mr. Wickersham — Not in order if the roll has not been called.

Mr. Quigg — I move a call of the House.

Mr. Wickersham — I move a call of the House.

Mr. Quigg — I will ask for the Chair's decision whether it is in order or not.

The President — The motion to adjourn is in order.

Mr. Quigg — I move to adjourn.

Mr. Wickersham — Mr. President, I rise to a point of order. If there is no quorum present, I move a call of the House. No motion can be entertained without a call of the House if there is not a quorum present.

Mr. Quigg — A motion to adjourn is always in order and takes precedence under the rules.

Mr. Wickersham — When there is a quorum present.

Mr. Quigg — With or without a quorum.

The President — The decision of the Chair is that the motion to adjourn is in order.

Mr. Wickersham — I appeal from the ruling of the Chair on that proposition, and ask that the House be called upon the ground that there is not a quorum present and it has not yet been ascertained — the point has been raised but no business can be proceeded with until there is a call to determine whether or not there is a quorum.

Mr. Quigg — If it is not raised, if the point is not raised sufficiently, then the motion to adjourn is in order.

Mr. Wickersham — I appeal from the decision of the Chair.

Mr. F. L. Young — Mr. President, I rise to make a parliamentary inquiry. A motion to adjourn is always in order, but a motion to adjourn, when we adjourn, to a certain date, is not always in order.

The President — The Chair understood Mr. Quigg to make a motion to adjourn.

Mr. Quigg — Yes, sir, that is my motion. I have withdrawn the other.

Mr. Young — That was not the motion as I understood it.

Mr. Quigg — You did not understand; I withdrew the other.

Mr. Young — I understood what you said.

Mr. Quigg — I moved to adjourn.

Mr. Wickersham — And I raised the point of order that there was not a quorum present, in order to determine whether or not any motion could be entertained. The Chair ruled against me and I appealed from the ruling of the Chair.

The President — The Chair has decided that the motion to adjourn is in order,—the motion made by Mr. Quigg. Mr. Wickersham has appealed from the decision of the Chair. The question now is, shall the decision of the Chair be sustained? As many as are in favor of sustaining the decision of the Chair will say Aye, contrary No. The motion seems to be carried. It is carried.

Mr. Quigg — I move to adjourn.

The President — The question is now on the motion to adjourn. Those in favor of the motion to adjourn will say Aye, contrary No. The motion seems to be lost. It is lost.

The presentation of memorials is now in order.

Mr. Quigg — I make the point that there is not a quorum present to do business.

Mr. Parsons — The gentleman seems to address the Chair, but he does not address the Convention. We cannot hear what he says.

Mr. Quigg — I raise the point, Mr. President, that there is not a quorum present to do business.

Mr. F. L. Young — Mr. President, the only way to ascertain whether a quorum is present is by a call of the House. The point is out of order.

Mr. Quigg — By a call of the roll, yes; a call of the roll will ascertain whether there is a quorum present.

Mr. Parsons — Mr. President, I make this point of order, that it is out of order to raise the point of order that there is not a quorum, for the reason that if he had wished to make it then he should have called for a vote on the previous question, and have determined from that as to whether or not there was a quorum; and that his point now is merely dilatory.

Mr. Austin — I rise to say that if this is the best we can do as a parliamentary body, I think we ought to adjourn; I think we ought to adjourn forever. Those of us who are here are here prepared to do something to-day. It is understood there won't be a whole lot of work done in this Convention, but there are a lot of earnest people who want to get at committee work, and who do not wish to sit here in the Convention and listen to a lot of rot about calling the roll and sending out the sergeant-at-arms for absent members who may not have anything to do upon particular committees. I think it is an outrage to take the time of those who are staying here and who want to stay here to do their work, and to do it properly, by such technical objections as are now raised by the delegate from Columbia county.

The President — Under the rules of the Convention, the next order of business is communications from the Governor and other State officers; are there any such?

Mr. Quigg — I raise the point of order, that there is no quorum present to do any business. The Chair knows it. It is well settled that the Chair can count a quorum; and as there is no quorum present, and as every delegate in the room knows it, I make the point of order against the doing of any business.

Mr. Wickersham — Regular order, Mr. President. There is no business before the House.

Mr. Quigg — There is my point of order before the House; no quorum.

Mr. Wickersham — It has not been ascertained.

Mr. Quigg — I demand that the Chair ascertain the same.

The President — Does Mr. Quigg insist upon the roll being called?

Mr. Quigg — Mr. President, I demand the Chair ascertain the presence or absence of a quorum; and I call the Chair's attention to the fact that any business done is unlawfully done, in view of that point of order having been made and there being no quorum present.

Mr. Wickersham — The point of order, that there is no quorum, is not evident. Whether there is a quorum present or not, that question must be decided by the vote of the House. There is no motion before the House, and I call the attention of the Chair to the regular order.

The President — The point of order seems to be well taken. The next order of business is notices, motions and resolutions, to be called for by districts.

The President — The next order of business is reports of standing committees. Are there any reports?

We will pass to the next order of business.

Reports of select committees.

Third reading.

Unfinished business in general orders.

Special orders.

General orders.

Mr. Wickersham — I move that we suspend the call of General Orders, owing to the state of business in the committees and the desirability of allowing them all the time that is practicable. I move to suspend the call of General Orders.

The President — Mr. Wickersham moves the suspension of the call of General Orders.

Mr. Quigg — Mr. President, I raise the point of order that no quorum is present to do business.

Mr. Whipple — Mr. President, for the sake of orderly parliamentary practice that is so well established that no man, even a wayfaring man, need go astray, I want to state my judgment that when the point of order is raised that no quorum is present there is nothing in the world that the Chair can do but to order a call of the roll to ascertain if that is a fact. Now I don't care whether you adjourn or do not adjourn, or whether there is a quorum or not; but we cannot afford to have established in this Convention a rule that would revolutionize all parliamentary practice. It is the duty of the Chair to instruct the Clerk to call the roll to ascertain whether a quorum is present or

not. I don't care whether there is or not, but that should be done.

Mr. Wickersham — Mr. Chairman, as I understand, if a point of order is raised, the Chair may determine for himself whether a quorum is present or not, unless a roll-call is requested and moved and carried. No such request or motion having been made or carried the Chair can ascertain and determine for himself whether a quorum is present, and proceed.

The President — It is the opinion of the Chair that it is discretionary with the Chair to order a roll-call to ascertain if there is a quorum present, unless on motion of a member which has been carried providing for a roll-call. No such motion has been offered or carried, and the Chair exercising its discretion has not ordered a roll-call. The Chair, however, desires to accommodate, and carry out the wishes of, the House in every respect, and if it is the desire of the House that the roll should be called the Chair has no objection.

Mr. Quigg — Mr. President, I think that Mr. Whipple is absolutely right, and that it is your business to order a call of the House — that is, a call of the roll. But I raise the point of order that no quorum is present. It is obviously true and I — under your ruling which I believe to be incorrect — I move that the roll be called to ascertain the presence or absence of a quorum.

The President — It is moved by Mr. Quigg that the roll be called to ascertain the presence or absence of a quorum. Those in favor of the motion will say Aye, contrary No. The motion seems to be lost. It is lost.

Mr. Wickersham — Mr. President, I move to suspend the call of General Orders.

The President — It is moved by Mr. Wickersham to suspend the call of General Orders. Those in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Quigg — Mr. President, I move that when the Convention adjourn it adjourn to meet on Monday evening next at 8:30 o'clock.

Mr. Wickersham — Mr. President, that motion was made yesterday and was voted on in the presence of a very full house. I hope it will not prevail.

Mr. Parsons — Mr. President, I raise the point of order that the motion is not in order at this time.

Mr. Quigg — It is in order at any time, Mr. Parsons, and you who are a member of the Rules Committee can see that it is. It is absurd that the Convention cannot say when it will adjourn.

The President — Has Mr. Quigg made a motion to adjourn?

Mr. Quigg — No, sir; that when we adjourn we adjourn to meet on Monday at 8:30 o'clock in the evening.

The President — It is moved that when the Convention adjourn it adjourn to meet on Monday evening next at 8:30 o'clock.

Mr. Wickersham — Mr. President, as I observed before, that is the motion which was discussed very fully yesterday and was voted down by a very decided majority. I trust it will not prevail now.

Mr. Parsons — I call the Chair's attention to Rule No. 44. Mr. Wickersham made a motion that we adjourn, which is not amendable or debatable; therefore Mr. Quigg's motion that when we adjourn we adjourn to meet Monday evening, is not in order.

Mr. Quigg — Mr. President, it is amendable and debatable, of course.

The President — The motion was made by Mr. Quigg that when the Convention adjourn we adjourn to Monday evening at 8:30 o'clock.

Mr. Parsons — But Mr. Wickersham made a motion that we adjourn now.

The President — The Chair heard no such motion.

Mr. Wickersham — I made no such motion.

The President — The question is upon the motion made by Mr. Quigg, that when we adjourn we adjourn to Monday evening at 8:30 o'clock.

Mr. Deyo — That motion, Mr. President, is in order under Rule 44.

The President — The motion is in order. Those in favor of the motion will say Aye, contrary No. The motion seems to be lost. It is lost. The Clerk will read the notices.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:20 a. m., the Convention adjourned, to meet at 10 o'clock a. m., Saturday, July 17, 1915.

SATURDAY, JULY 17, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Burton J. Hotaling.

The Rev. Mr. Hotaling — We look unto Thee, Almighty God, as we take up the business of the day, realizing that Thou hast given us this opportunity and unto Thee alone shall we be accountable. Wilt Thou then bless this assembly, so that in the fear of God they shall act. May Thy blessing be continually now

and evermore throughout this world and the State which we represent. In Jesus' name, we ask it. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed the Journal will stand approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a copy of the resolution adopted by the common council of the city of Lockport, which will be referred to the Committee on Cities.

Also from the Business Men's Association and Board of Trade of Cohoes. Same reference.

Also from the city of Syracuse. Same reference.

Also from the Directors of the Glens Falls Chamber of Commerce. Same reference.

Also from the common council and other bodies of the city of Batavia. Same reference.

Mr. Quigg — I call the Chair's attention to the obvious fact that there is not a quorum present to do business.

The President — Manifestly there is not a quorum present.

Mr. Quigg — I ask the Chair to ascertain the fact that there is not a quorum present either by his own observation or by calling the roll.

The President — The Chair has ascertained that fact by his own observation. What is the pleasure of the members of the Convention who are present?

Mr. Quigg — I move that the Convention do now adjourn.

The President — It is moved that the Convention do now adjourn. All in favor of the motion say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 8:30 o'clock Monday evening.

Whereupon, at 10:07 a. m., the Convention adjourned to meet at 8:30 p. m., Monday, July 19, 1915.

MONDAY, JULY 19, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Charles M. Nickerson.

The Rev. Mr. Nickerson — Let us pray. Oh, Lord, Our Heavenly Father, without Whom nothing is strong, nothing is holy, Who ordereth all things according to Thy will, Who setteth up and casteth down, we heartily thank Thee for Thy loving care of this nation from its foundation to the present time. We thank Thee for the wisdom and the foresight of the founders of the Republic. We thank Thee for the prosperity, the safety, the well-

being and the liberty which this nation has enjoyed. We thank Thee because in this day of world-wide turmoil and distress we are still at peace and can go about our daily tasks with undisturbed minds. Continue, we beseech Thee, Thy care of this nation, and the pouring out of Thy blessings upon it. Give our rulers and our legislators understanding and patriotism and a lively sense of the responsibility and duties of their office. Bless, we beseech Thee, the members of this Convention. May the final issue of their labors here conduce to the well-being of this State, its honor and its safety and its peace, that in consequence of what they do, wise and just laws may be enacted and enforced, and righteousness encouraged and vice repressed. All of which we ask in the name and for the sake of Thy Son, Our Saviour, Jesus Christ. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from the city of Canandaigua, which will be referred to the Committee on Cities; also from the executive committee of the Chamber of Commerce, Cohoes, same reference; also from a meeting of citizens of Tonawanda, same reference.

Communications from the Governor and other State officers?

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. Barnes — Mr. President, I should like to move to amend Bill No. 377, to reprint and recommit the same in the Committee on Legislative Powers.

The President — Mr. Barnes moves to discharge the Committee on Legislative Powers from consideration of Bill No. 377, to amend and recommit as amended. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

The President — Reports of Standing Committees.

Reports of Select Committees.

Third reading.

Unfinished business of General Orders.

Special Orders.

General Orders.

The Secretary will call the Calendar.

The President — There being a sufficient number of bills moved, the Convention will go into the Committee of the Whole for the consideration of the Calendar.

Mr. Jesse S. Phillips will take the Chair.

The Chairman — The Convention is now in the Committee of the Whole on the Calendar. The Clerk will read.

The Secretary — No. 410, General Order No. 2, by Mr. R. B. Smith.

Mr. Wickersham — When this matter was last under consideration, we were discussing an amendment which I had proposed, and we got into a discussion as to the precise phraseology of the amendment, and then the matter was laid over.

Since the adjournment I have given some consideration to the language, and I desire to move now to amend the proposition so as to read as follows: "No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor by the State or any civil division thereof, or by any board, officer, or other agency of the State, or of any such civil division."

The language differs a little from that which we discussed the last time.

The Chairman — Will the gentleman hand the amendment to the desk?

Mr. Wickersham — I have it in very rough form. I will hand it up when I have a chance to write it out. The bill is No. 2 — No. 410, No. 2 on the Calendar, Mr. Barnes.

Mr. Barnes — I thought the other one was moved.

Mr. Wickersham — No, that is the one. The language which we were discussing is slightly different. My language in the present Proposed Amendment will be comprehensive enough to embrace all of the agencies of the State which are intended to be reached by the Proposed Amendment. I think the mover of the proposal will agree to that, and I will ask whether Mr. Smith will accept that amendment.

Mr. R. B. Smith — Mr. Chairman, I think there is no question that the language of this section and the language of the section which was submitted by the Legislature should be made identical, and upon final discussion that the language used, if we use the term "civil division," should be so defined by this Convention that its meaning shall not be misconstrued by the courts. I do not think it is so important what we do, as it is that we define it. I accept the suggested amendment, with the suggestion, however, that when the matter comes before the Committee on Revision, if it does, we be at liberty to take up with that committee the use of the language, not only in this section, but also in the other section, and have the language dissected.

Mr. Wickersham — I think, Mr. Chairman, that the gentleman will agree with me that the language in both the section under consideration and Article XII ought to be the same, and the language suggested in my amendment, which refers to the "civil division" of the State, is the same as that employed in Article XII, Section 1, of the Constitution, as it at present stands. If one is altered, the other should be altered to correspond.

Mr. Latson — Mr. Chairman, may the proposed language be read once more?

The Chairman — Mr. Wickersham, will you kindly read the amendment or send it to the desk and the Clerk will read it?

Mr. Wickersham — Perhaps I had better read it because I have it in rough form: "No extra compensation shall be granted or allowed to any public officer, servant, agent or contractor, by the State or any civil division thereof, or by any board, officer or other agency of the State or of any such civil division."

The Chairman — Does the gentleman from Onondaga, Mr. Smith, withdraw his amendment that was offered the other day?

Mr. R. B. Smith — Well, I accept it. I assume that General Wickersham offers that as a substitute for the amendment upon the calendar, and I accept it, so that it is the only amendment before the House.

The Chairman — The question is upon the amendment offered by Mr. Wickersham. Those in favor of the amendment will say Aye, opposed No. The amendment has been adopted. The proposal as amended will be advanced. The Clerk will read a proposal.

The Secretary — No. 376, General Order No. 4, by Mr. Austin.

Mr. Austin — That is moved, Mr. Chairman.

The Chairman — The gentleman from Greene, Mr. Austin, makes the usual motion.

Mr. Austin — Mr. Chairman, I now renew the motion which I made last Monday night, when this same proposal was under consideration, to amend it by substituting in place thereof printed No. 78, which was the original form in which this amendment was introduced, and which absolutely strikes from the Constitution the provision permitting the use of emergency messages. I shall not discuss it at this time, because I went into it fully last week myself. I only desire to point out the difference between the amended proposal as reported and No. 78 which I ask to substitute in place thereof. As I say, No. 78 cuts out the emergency provision absolutely, while this bill as amended, with my consent, and reported, provided that emergency messages may be given by the Executive, may be sent to the Legislature by the Executive, and that in the case of an emergency message a bill affected by such need only be printed and on the desks of the members for one day. I think that is a great improvement upon the present system, but, as I explained to the committee last week, and as I now earnestly believe, I think there is no necessity for the emergency message; that the careful consideration of legislation requires at least three days' study of a bill before it should be passed, and that no interest of the State will be harmed

by striking out the entire emergency provision of the Constitution, but, on the contrary, all the interests of the State will be conserved by so doing. That is all I care to say concerning the amendment at this time.

Mr. Barnes — When this proposal by Mr. Austin was discussed in the Committee on Legislative Powers, it was supposed that it might be impossible to secure the passage by this Convention of the elimination of the so-called emergency message altogether, and it was therefore suggested to Mr. Austin that he amend his bill, originally introduced to give up the emergency messages altogether, so that an emergency message might be given for one day by the Governor, for one day's print. The Committee on Legislative Powers and Limitations has no pride in this suggestion. It was done by it conservatively in the belief that possibly the Convention would not adopt the elimination of the emergency message altogether, and I trust in voting upon this matter that you all agree, as far as the committee is concerned, that we are entirely satisfied with Mr. Austin's proposal as originally made, and that the amendment offered to return it to its original condition is entirely satisfactory to our committee.

Mr. Brackett — Is the question now up on the motion by the delegate from Greene, Mr. Austin, to advance the amendment?

Mr. Austin — Mr. Chairman, I have moved to amend the bill on the Calendar No. 376, by substituting in place thereof No. 78, which was its original form.

Mr. Brackett — Speaking to what was said by the gentleman from Albany, Mr. Barnes, I want to say that the best place to cut off that dog's tail is right behind his ear. I want to urge the members of this committee to vote for the original Austin amendment. The chief advantage of the special emergency message from the Governor is that it can be used as a club, or as a reward, and whatever distinction, whether it is one day, three days, or whatever the distinction you make, between a bill that has the emergency message and the bill that has not the emergency message, you leave unimpaired and unfettered all the evils of the emergency message. Let us get down to the basis of it, and the way to do the business is to restore the bill as it was in the original Austin amendment by adopting this motion to amend.

Mr. F. L. Young — If I may have the indulgence of the committee for a few moments I would like to make some observations on this amendment.

In reading the discussions in an earlier Convention I discovered the words of a distinguished citizen of the State who said, quoting the substance and not the exact language that it was the duty of a member of a Constitutional Convention to write into the Constitution not what had been thought out in the closet

or in the study, but what experience had demonstrated to be wise. I have observed in this Convention, from time to time, I think, a slight inclination to disregard experience and to turn to the study for advice and guidance. Some time ago I had the good fortune, from an educational standpoint, to serve in the Legislature of the State of New York. I had a good opportunity to observe what the emergency message does and also the special message from the Governor, and also the power to call extra sessions of the Legislature. In four years in the Legislature I returned here for three extra sessions, during the whole summer, on matters that had been acted upon by the Legislature, and on matters which, except in one instance, the Legislature was compelled to take up by Executive messages. It seems to me that since the last Constitutional Convention there has been an inclination to drift away from the great and underlying principle of Republican Government; namely, that the three departments of government should be kept separate and distinct all the time; that the Legislature should not be dominated by the executive, nor that the executive should dominate the judiciary.

I am sorry to say that in the last few years, not only in this State, but in other places where there is a chief executive, there has been an arrogation of power, either given by the Legislature under a threat, or assumed by the chief executive, so that both departments, the legislative and the judicial departments have been assailed by the chief executive. I believe, gentlemen, that the time has come when we should speak in certain terms about these divisions of governmental powers and take such steps that the judiciary need not be threatened by the Executive with a review of legislative decisions, nor that the Legislature should be threatened with excommunication if it fails to obey the commands of the Executive. Sitting in this Chamber, I have seen emergency messages come up here, emergency messages asking for immediate enactment of a law, made necessary by great public necessity. I think, Mr. Chairman, you will remember one time here when an emergency message came in before us, after our having given full deliberation to a certain measure, and under stress of the emergency message we passed the law, only to have it vetoed by the Governor within thirty days after it went through this body. We are now discussing the emergency message. I confidently believe that the veto power has been abused in this State, and I am sure that the power exercised by the Governor in sending in special messages to the Legislature has been abused. There have been times here when it has been *lese majesté* for any legislator to differ with the Governor. It meant political suicide. That is what it meant, and we were compelled to do it. I am glad to take this opportunity of stating that, for one, I believe in such

language in the Constitution as will make it impossible for the Chief Executive of this State to unduly interfere with the Legislature. I have been waiting for some one in speaking in favor of the old provisions of the Constitution to point out a single occasion when there has been a real justification for the Chief Executive to send in an emergency message, so called. The Legislature will do its duty much more courageously, much more conscientiously, if some of the old checks and balances of the Constitution are given their old place. We are here after twenty years of experience with this. We who have sat in this legislative hall know exactly how it works, and it works badly. I am very heartily in favor of Mr. Austin's amendment.

Mr. L. M. Martin — Realizing that perhaps I am speaking for a hopeless minority on this question, I could not refrain from expressing the opinion to the members of this Convention that perhaps we are making a mistake in doing away with the emergency message. I feel that I have a right to say that, even though I am a member of the Committee on Legislative Powers, for I understand that this question is now up on an amendment on the floor of this House, and not upon the question as originally submitted by the Committee at Large and upon which we voted. The question came up in the last Constitutional Convention as to the impropriety of bills coming on members' desks in the morning, having to be voted upon within an hour or within a half an hour after they came from the desk, and it was thought reasonable to insert a provision that bills should lie upon the desks of the members for three days. The framers of our Constitution in 1894 used good judgment in placing that provision in the Constitution of the State. But a serious question arose: What if some condition should occur? What if something should come up that the public necessity of the State at large, or a portion of it, required the immediate enactment of legislation? What would they do? And those men who framed this Constitution thought that in the co-ordinate branch of the law-making power of the State, namely, the Governor, would be lodged a power to say on certain occasions that there was a public necessity, and one of the most eminent members of that Convention said, in speaking on that subject, that it was perfectly proper — and, by the way, the member of that Convention who made that assertion is a member of our present Convention — that it was perfectly proper that if the interests of the State should demand the immediate passage, it might be passed at once, and on that theory there was inserted this what I claim to be a most wise provision in the organic law in 1894, that the Governor in a certain emergency could insist on immediate legislation on a matter deemed of necessity to the State at large. Now, of course, men differ on that

proposition. The gentlemen who have spoken have evidently had a hard time with their Governor. I don't know anything about that, that happened since my time in the Legislature; but in normal times, when parties were in accord with their Executive, I failed to see any evil or any great "club," as they say, that was used, except in the time of the very emergency itself, and I have seen that emergency message used to the great interest of the State. Now just a moment and I am through. I say that this message is necessary the last three days of the session — and why? The learned and very genial leader on the other side said that it was necessary to do away with it because, by necessity, all the legislation was crowded into the last three days, and he is right about it. Under the ironclad rule that they have in the Assembly of this State, there goes into session the last two or three weeks of the session an autocratic body. Those who have been members of that House can remember how we stood in awe, with our shoes in one hand and our stockings in the other, waiting for some peep out of that room, to see whether the frown or the smile of the Speaker would appear. We had proper and good legislation that we wanted enacted, and I say to you that in encountering that very condition in this House an emergency message is a proper remedy and a wholesome remedy at times. Another suggestion. In 1898 we were called back to amend the law to allow soldiers in the Spanish War to vote. We were called back Monday, the bill was presented Tuesday, an emergency message followed Thursday morning and the bill was passed. If we had had the three-days-rule in vogue we could not have got at it until the next week, the middle of it. All the expense of these two great Houses, with all their assistants, all their clerks and all their bookkeepers, would have been a charge upon the State, and we people would have been standing around here waiting for the law to operate. In the next year we were called back to pass the franchise tax bill, when the same conditions existed. I say that it is a necessary help to legislation. Your bill comes up on the second day before you adjourn and you find it wrong, you find a line left out, a punctuation mark left out. You cannot have the legislation that year unless the Governor helps you out. I was surprised at the statement made by my friend, the introducer of this bill, last week, when he read the great number of emergency messages that were sent in. One would think that they fell down upon this Chamber like snowflakes, while, if he was a member of this House and he got the snowflakes, he probably needed them. Now let us see if that has been abused. Governor Morton construed the conditions very strictly. He refused to send emergency messages into this House except on the last three

days to help out members on legitimate bills, and leaving those messages out — which I don't class as emergency messages; I class them as helping messages — we will see the record. Governor Morton in 1895 and in 1896 sent in no emergency messages. Governor Black in 1897 sent in three emergency messages; Governor Black in 1898 two emergency messages. Governor Roosevelt in 1899 sent in three emergency messages and in the next year, eleven emergency messages. Governor Odell in 1901 sent in thirteen emergency messages, and I will tell you the reason. Governor Odell recommended the combination of a great many of these expensive bureaus under one head. The Legislature of this State was powerless to carry out those recommendations — and why? Every man that had a "pull" in this Capitol, every man that had a relative that had a pull in this Capitol, every relative that had another relative that had a pull in this Capitol, came tugging upon the members around this House and they were almost forced to ignore the recommendations of the Governor. The Governor did advocate these measures and he did put them through this Legislature by emergency messages, and that is the reason the Governor sent in thirteen that year. The next year the matter ceased and he sent in seven. In 1903 he sent in three; back again in 1904, twelve. Now I say, in conclusion, that you are making a mistake; I say that it is a wholesome remedy. I say that it should be left to the Executive of this State to have the right to place legislation before this House and the people by emergency messages if he sees the necessity. And I think, gentlemen, before you vote on so serious a question as this you should give the few suggestions I have made in this disjointed way due consideration.

Mr. Stimson — I sincerely hope that the amendment by the gentleman from Greene, Mr. Austin, will be adopted and that the emergency message will be cut out in its entirety, and in taking that position I am not so much influenced by the reasons which have been given, by my friend, the Senator from Saratoga, or by my friend, the gentleman from Westchester, as I have been by the evidence which has been brought out in this Chamber, that the emergency message has produced the greatest evil, not from being used as an instrument of oppression or tyranny on the part of the Executive, but because the Executive has been persuaded or cajoled into turning it over to the Legislature to be used as an excuse for shiftless and inefficient and "sloppy" financial legislation. I was very much impressed by what the gentleman from New York, Mr. Smith, said the other day as to the situation which normally exists in regard to the passage of appropriation bills. I was very much impressed by the statement that during the past ten years, I think it was — at least

that — no appropriation bill had been passed here except under an emergency message. Now that indicates necessarily inefficient legislation. It indicates that as a normal condition and a matter of course the safeguards which the Constitution has placed around the passage of financial legislation, have been wiped out by a misuse of this power, a misuse coming not for the purpose of oppression or tyranny but for the purpose of allowing the legislative body to crowd everything into the last days of its session where they can be passed without sufficient scrutiny and without that necessary publicity which is important to allow the citizens of the State to know what is going on in regard to financial legislation.

Mr. Chairman, I think that three days is not a bit too long and I have been much impressed by the statement made here that during the entire life of this Constitutional Provision there has been no real emergency which made necessary the use of such a message. I think it is the experience of every one who has been in public life that the things which do not need statutory safeguards or constitutional safeguards are real emergencies. When a real emergency comes up, one recognized as an emergency by all citizens, it is the last time when any citizen of any party really stands upon technicalities, in meeting the emergency. And to build our Constitution upon the constant fear of such emergencies is to invite the various brakes and checks which prevent it from working correctly during normal times. I therefore sincerely hope that Mr. Austin's amendment will pass in its original form.

Mr. D. Nicoll — It hardly seems necessary to say any more on this subject. It has been so well debated, but I would like to say just one word. I think the history of this matter shows how exceedingly careful this Convention should be in amending the Constitution. When this matter was brought before the Convention of 1894, it was introduced on a report from the Committee on Legislative Powers, with the statement that the amendment was proposed for the purpose of preventing hasty and ill-considered legislation. So it was pointed out to us by the Chairman of the Committee that they had devised a plan by which the bills were to lay upon the desks of members for three days and full opportunity given. It never entered the head of anybody in that Convention that this, not emergency, but necessity, as a provision of the Constitution called it, should be resorted to for the purpose of defeating the very object which we had in view in incorporating this provision in the Constitution so as to require at least three days for deliberation. So the framers of that Constitution in adopting that amendment, without knowing it, defeated the very purpose which they had in view, for certain it is that out of the abuse of this provision has come,

as Mr. Austin, Mr. Smith, Mr. Hinman and Senator Brown and Governor Glynn have shown us, a great mass of hasty, ill-considered and undigested legislation, costing the State thousands and tens and hundreds of thousands, if not more, of dollars. I have such a strong feeling upon the subject that I believe, if this Convention did nothing more than to take out this emergency message, it would have rendered a very great service to the State.

Mr. Wagner — As a legislator of ten years' experience, I want to endorse what has been said by those who favor the elimination entirely of this emergency message, and I have talked privately to a number of the delegates of this Convention, urging them to support this proposal to eliminate it entirely, because I do not think among the important things that we have to do, that there is anything more important than the elimination of this so-called emergency message. Nothing can be done which will tend to secure more deliberative legislation in the future than the doing away with this message. Our whole agitation has been, in public life and in the acts of public officials, for publicity; let the world know what is going on, and the only stumbling block toward that thing has been the abuse, the abusive use of this emergency message. I listened to my good friend, Mr. Martin, the delegate who favors the retention of this message, with the hope that he might give some illustration or case which really required an emergency message and which, without the emergency message, would have left this State in some perilous position, but I looked and listened in vain.

Mr. L. M. Martin — The one instance that I referred to, it was passed the last night of the last session that the Legislature was here, and that was the Ford Franchise Bill.

Mr. Wagner — Let us get right down to the point. That is not at all for what the emergency message, or the provision for an emergency message was put into the original Constitution.

Mr. Brackett — Does the Senator recall the fact that the Ford Franchise Bill had been on the files a matter of fifteen days when the emergency message came in; that it was not the requirement for it at all, but it was put in so the man that sent the messenger might have the credit for the Ford Franchise Bill.

Mr. Martin — I merely ask leave to ask the Senator from Saratoga if he does not recollect the fact that it could not be had at all.

Mr. Brackett — I cannot be questioned; I am not the speaker.

Mr. Wagner — Let me say, Mr. President, originally this provision for the emergency message was not put in there at all to meet the sort of case to which Mr. Martin here refers. It was to provide a case where legislative endorsement was required and had to be given within the day, and that if the Legislature were

forced to wait three days, it would put the State in some perilous situation, and I have searched my mind since Mr. Austin introduced his original bill to find a case where the legislative endorsement was required upon any kind of an emergency which could not wait three or four legislative days. But, on the other hand, I would favor the retention of this, even though it has been abused in the past, if the State would at any time be put in such a position as I have referred to, but not finding any such case, I say that there is nothing you can do to contribute more to deliberative legislation than the doing away with this message, and I want to make a simple confession that, though I now advocate that these messages be done away with, I have offended in the interpretation of this provision of the Constitution perhaps as much as anybody.

Mr. Brackett — You have.

Mr. Wagner — But not near so much as my distinguished antagonist in the Senate during the last session of the Legislature.

Mr. Brackett — And that was not myself.

Mr. Wagner — No, I am speaking of my antagonist in the last session of the Legislature.

Now, Mr. Martin says it is a helping message. That is the very thing we want to do away with. We want to stop this thing of making it a helping message. I had a case in the last session of the Legislature — and I might say to Mr. Stimson that it is not only abused in financial legislation. There is legislation at times very much more important than financial legislation which has quietly, in an “under-the-table” sort of way, by subterranean passages run through the Legislature and been signed before anybody had an opportunity to know what its provisions were, and legislation quite as important, if not more important than the financial legislation to which he is devoting so much time, and to his credit, during this session of the Convention. During the last session of the Legislature a bill was offered and there was an emergency message at the desk, amending the Workmen’s Compensation Law; and it happened that I had something to do with the drafting of the original Workmen’s Compensation Law, and I was told that it is merely giving the Commission an appropriation; that it was a little, unimportant amendment; that it amounts to nothing, so let us put it right through. Well, I got to be rather inquisitive, as the session went on, and I said I would like to have the opportunity, at any rate, to read it before we passed it, and when I read it, I found it was an amendment to the law most vital and destructive in my mind, and I at once made a protest, and it was with a great deal of reluctance that my opponents granted a reprieve of two or three days in which to make up my mind as to what my attitude ought to be. In the meantime I began, as I was charged

with beginning, and I had an agitation for a hearing. What happened? The law, the proposed law as it was offered then and upon which there was an emergency message already made upon the desk, never passed the Legislature and never came out of any committee. Now it was viewed by all members of the Legislature that that measure would have been destructive of the whole Workmen's Compensation Law, and yet if it had not been for the inquisitiveness of the minority leader at that time, so far as the Senate was concerned, it would have slipped through before any one discovered it, and it is that sort of thing that we must stop; and as one having had experience on both sides of the fence, I urge this Convention to adopt the proposal of Mr. Austin.

The Chairman — The question now is upon the amendment offered by Mr. Austin. Those in favor of the amendment will say Aye, opposed No. The amendment has been adopted.

Mr. Austin — I now move the passage of the original amendment as amended.

The Chairman — The gentleman moves that when the committee arises it report the Proposed Amendment as amended favorably. Those in favor will say Aye, opposed No. The motion is agreed to.

The Secretary — General Order No. 8, by Mr. R. B. Smith.

Mr. R. B. Smith — Mr. Chairman, Section 17 of Article III is a limitation, or rather a restriction, upon the form of a bill to the Legislature. It has a somewhat peculiar history, both from a constitutional point of view and also as reviewed by the courts. It was first reported by the Convention of 1867 in the following form:

“No law shall be revised, altered, or amended, by reference to its title only, but the act revised, or the section or sections thereof altered or amended shall be re-enacted and published at length.”

The amendment, like the other, failed to receive the indorsement of the people. The Tilden Commission again considered the same subject and it reported the amendment in its present form, but absolutely without comment. The real purpose, the real legitimate purpose of the amendment, which the courts conceded and which continued in the Constitution, in my judgment, is to prevent the Legislature from re-enacting a repealed statute by reference. That proposition is covered in the first part of this section, which I do not propose to disturb. When it comes to the latter clause of the section, and for the existence of which no explanation has ever been given, which provides “or which shall enact that any existing law or part thereof shall be applicable except by inserting it in such act,” that provision has met with the universal condemnation of the courts. Both the first decisions held that it did not apply

to a general statute where reference was made to an existing general statute for the purpose of providing procedure or administrative details to carry amended statutes into effect, such as providing for condemnation and stating that the property should be acquired by the process of condemnation provided in the Code of Civil Procedure. The next line of cases was in New York, another at Buffalo, where the special act provided for condemnation referred to a proceeding provided in the charter of those two cities for the purpose of carrying into effect the provisions of the special act. They both went to the Court of Appeals and the Court of Appeals held that in those cases it did not apply. In the case of *The People ex rel. Everson against Lorillard*, 135 New York, 285 — and which by the way is worth reading, as bearing upon the whole proposition of constitutional restrictions as to bill-drafting — the Court said, To hold that all of these acts which refer to other acts for the purpose of providing procedure as to administrative details, to hold that all these acts are void, as in conflict with this provision of the Constitution, would be to disturb titles, promote litigation, and inflict widespread injury. The worst evils which the framers of the provision could have had in view would be multiplied a hundred fold by such a construction. A subsequent decision of the Court of Appeals, 107 N. Y., held that it did not apply to a mandatory act and, as a result of all of the decisions, if anybody can tell me what the last part of this provision does apply to, I cannot imagine it, and I have had some experience in bill-drafting. It stands here as a bugbear every time we draft a statute, to determine whether a reference to what we believe to be procedure or administrative detail will be held by the court to be procedure or administrative detail, or whether the court will say that it affects some substantive branch of the law.

Mr. D. Nicoll — What is the history of this?

Mr. R. B. Smith — It was submitted by the Tilden Commission in 1872.

Mr. Marshall — Yes; in 1872.

Mr. R. B. Smith — It was reported in 1867, but in a different form. It did not have this addendum to it to which I object. It seems to me that any provision of this kind which has been litigated as frequently as this has, and the continued existence of which can accomplish no useful purpose but simply lead to continuous litigation, ought to cease to exist.

Mr. Marshall — I agree with Mr. Smith's statement that this statute has received very much consideration from the courts and that they have been somewhat puzzled in its interpretation. Yet I do not think that the amendment which has been proposed by the gentleman from Onondaga is all that he desires it to be.

In fact, I think his amendment makes the bill even worse than it is to-day, or the section worse than it is in its present form. It says, "No law shall be enacted which provides that any existing law or part thereof is or shall be deemed a part of said act." Now suppose that such a law is passed which does say in so many words that an existing law is to be deemed a part of the act? What is the consequence? Does the gentleman mean to say that that would invalidate the entire act if there should be a reference in the statute to some existing law? It would seem to me that he has left out words which are necessary to give due effect to the prohibition, because it would seem that the concluding words, "except by inserting it in such act," must have application to the two antecedent clauses of that section, namely, first, that "No law shall be enacted which provides that any existing law or part thereof is or shall be deemed a part of said act" and, secondly, one "which shall enact that any existing law or part thereof shall be applicable." But the gentleman from Onondaga proposes to strike out the clause "except by inserting it in such act" and therefore leaves the whole subject in mid-air. We do not know where we are and we do not know what the law does. We do know now that there have been some six or eight decisions or more interpreting this act by the Court of Appeals, about what the Court would say with regard to a statute which is claimed to be violative of the provisions of this statute; but I fear that this proposed amendment makes our last state worse than our first, and that, at any rate, the words "except by inserting it in such act" are necessary in order to give any meaning or effect to this section. I am not prepared to say that the other words should be eliminated. At any rate there has been no crying demand for such change and it may be well for us to give further consideration to this matter before we commit ourselves to its acceptance, and I therefore suggest that we would better, when the committee arises, report progress on this amendment, for the purpose of giving us opportunity to give it further study and consideration.

Mr. Wickersham — It seems to me this is pre-eminently one of those provisions which ought to be accompanied by a report from the committee pointing out exactly the construction which has been given to the provision, the difficulties found with it, and the improvement which would result from the change. It seems to have been construed in a number of cases. The court in one of the cases to which Mr. Smith refers, says:

"It is somewhat difficult to give to that provision of the Constitution, invoked in this case to condemn the legislation in question, a reasonable construction that would be applicable in every

case. A provision of the fundamental law which attempts to regulate the form in which the legislative will is to be expressed in the enactment of laws is difficult of a just and reasonable application in all cases, and is at best of very doubtful utility. When the organic law has fixed the limits of legislative power and has placed some general and suitable restraints upon its methods of procedure, its proper office is generally fulfilled, but an attempt to prescribe the language or the forms to be used or observed by the legislature in the enactment of statutes must inevitably result, either in the condemnation of numerous legislative acts, perfectly wholesome and just, or in the liberal exercise by the courts of their undoubted powers to give to all laws a just and rational construction and meaning."

Now, Mr. Chairman, it seems to me that it may be that this amendment should be passed in the present form. It is not quite apparent, and I think a better disposition would be to refer the matter back to the Committee in order to give consideration and study to the law and report back the reasons for making the change suggested or any other change in that language, and unless the Committee on Legislative Powers, whose Chairman is here, objects to that, or has already done it, I would like to move that that disposition be made.

Mr. Barnes — Mr. Chairman, I should like to second the motion of Mr. Wickersham that this bill be referred back to the Committee on Legislative Powers for report.

Mr. Wagner — I suggest to the leader that he had better wait until we get back into Convention. That motion is not in order in Committee of the Whole.

Mr. Wickersham — I think the motion is in order that the Committee of the Whole report back to the Convention that it has considered this provision and recommends that it be referred back to the Committee on Legislative Powers for further consideration, and I make the motion that we suspend the further consideration of this amendment, and when the Committee rises, that it report to the Convention that it has considered this measure, and recommend that it be referred back to the Committee on Legislative Powers for further consideration.

Mr. Brackett — I do not wish to make any objection to any disposition that the minority leader wants to make with respect to the bill, but I do want to say this: The meaning of the original provision as inserted in the Constitution, it seems to me, is manifest. It was put in there so that a lazy draftsman of a bill who would not take the trouble to insert all the provisions of the bill which he wanted to become operative should not simply refer to another already-existing law, and say that the provisions of

that law should apply and come into the belly of this one. Now, that is not good legislation, and it is not a good way to have your statutes, when you come to have them examined by counsel or decided by the Court, because if it may be done one day by referring to a statute of last year and transferring the terms of that statute into the bill pending, then the statute of a year ago could have done the same thing, and we could go on, as was suggested by some one the other day, I think it was Mr. Smith,— I cannot give the exact language, but it was to the effect that bigger fleas had smaller fleas to bite them, and so on, *ad infinitum*.

Now, with the provisions of that clause in the Constitution as it seems to read, I want to declare myself in the fullest accord, and every bill ought to have within its four corners language that will cover every provision which it is intended to have the law provide for. Now why has it not been operative? I confess I do not know. It takes the astute skill of the constitutional lawyer from New York, Mr. Marshall, to find out. As I recall, the first decision was to the effect that while a grant of power attempted thus to be given by reference to another statute was not valid, yet a method of procedure given by reference to the other statute was valid. I think there was some such distinction as that made. But it comes finally that the courts have practically, and I think I can say entirely, ignored the whole provision. As the gentleman from New York, Mr. Marshall, says, it has been treated as directory instead of mandatory. I would like, therefore, if there is any language, whether framed by this committee or where — I would like at the end, if necessary, to change the language put in the provision that “the Constitutional Convention means what it says here and this is mandatory and the Courts will please take notice.” Now, if that language will meet it, I am willing to have that inserted.

The Chairman — The question is upon the motion of the gentleman from New York, which is that, when the Committee rise, they recommend the recommittal of the measure to the Committee on Legislative Powers. Those in favor of that motion will say Aye, opposed No. The motion is carried.

The Secretary — No. 734, General Order No. 11, by Mr. R. B. Smith.

The Chairman — The gentleman from Onondaga makes the usual motion.

Mr. R. B. Smith — The purpose of this amendment, as I originally drew it, was to declare in the Constitution what I believed to be the law but concerning which a doubt arose during the last impeachment proceedings of the Legislature or the Court of Impeachment. To provide that the Legislature has jurisdiction over certain subject-matter, and then to leave in doubt whether

the Legislature has in itself the power to convene itself for the purpose of acting upon those subjects, or to provide that the Assembly has the power to initiate impeachment proceedings, but to leave in doubt whether it can convene itself for the purpose of instituting those proceedings, except upon the initiative of the Governor, who may be the subject of the impeachment proceedings, seems to me to be a matter which should not be left in doubt. There are probably but three subjects, only three subjects, involved in this amendment. The Legislature by vote of two-thirds of the members of each House, can remove judges of the Court of Appeals, and judges of the Supreme Court. The Legislature, by joint action, by concurrent resolution, can institute an investigation of any subject for the purpose of legislation. The Assembly has the power to initiate impeachment proceedings. As the amendment was originally drawn by me, it provided that the Legislature could, of its own motion, convene for the purpose of acting upon any matter within its jurisdiction, except a bill or a proposed constitutional amendment; and that the Assembly, of its own motion, could convene for the purpose of impeachment proceedings. The Committee saw fit to amend the Proposed Amendment by limiting the power of the Legislature as to removal proceedings, to proceedings for the removal of judges and justices, and in that manner reported. Personally, I do not see any grave danger in leaving to the Legislature the power, if the emergency arises, to institute a legislative investigation. The amendment as reported undoubtedly limits it and takes away from the Legislature that power. I do not believe in so-called legislative investigations, and I believe that the majority of those investigations, many of which have been instituted for political purposes, have reacted upon the parties that instituted them. I doubt the wisdom of taking away from the Legislature, however, the power in a real emergency, when something of Statewide importance is at stake, of exercising the function which it otherwise would have by expressing the limitation contained in this amendment. Of course I believe that it is more important, probably, to have the power to convene for the purposes specified and clearly indicated in the Constitution than it would be to leave the Constitution without such statement. On the other hand, I am not ready to consent or ready to assent to the proposition that the Legislature should be deprived of the power of an investigation if it so deems fit.

Mr. Quigg — Was this referred to the Judiciary Committee for the purpose of getting their opinion?

The Chairman — Referred to the Committee on Legislative Powers.

Mr. Barnes — Mr. Chairman, supplementing Mr. Smith's discussion on this amendment, our committee held that it was our opinion that for the purposes provided for in the Constitution, the Legislature or the Senate alone or the Assembly alone might convene of its own motion, and I understand that the Court of Impeachment in the Sulzer case so held. But the fact that such power is not clearly expressed in the Constitution itself, would, in the event of such action taken by the Legislature in either of the cases referred to in this amendment, be open to criticism and to debates as to whether the Legislature or the Assembly had the constitutional power. But if it is clearly set forth in the instrument of government that they have that power, the criticism will fall, and they may proceed in accordance with the constitutional power vested in them by the Constitution of the State. Therefore, this amendment changes nothing, adds nothing to their power, but simply clarifies the situation in the public mind, whenever the Legislature or the Assembly may feel called upon to act under one of the constitutional functions which devolve upon it by this basic law.

Mr. Austin — Mr. Chairman, I am in sympathy with the purpose expressed by the introducer of this amendment. I simply rise to inquire what he, and the Committee which reported the amendment, thinks is meant by the use of the term "The Legislature may of its own motion convene." My understanding is that the Legislature now meets in two ways; first, on a date specified in the Constitution; second, when called together by the Governor under his power to call them together. How is the "own motion" of the two separate and distinct branches of the Legislature going to be made? Now, it seems to me that there should be something — if a provision of this kind is to be adopted, something should be inserted in the Constitution which will make it clear how this machinery is to be placed in operation.

Mr. Barnes — Mr. Chairman. Mr. Marshall, don't you think we ought to answer Mr. Austin's question? He asked a question. That was the purpose of his rising. I yielded to Mr. Smith to answer.

Mr. R. B. Smith — The procedure will be provided by joint rule. If it would make it any better, it could be stated, "The Legislature may by joint rule provide," but the joint action of the Legislature can only be pursuant to joint rule.

Mr. Marshall — The interrogatory presented by the gentleman from Greene is a very wise one, and is but one of a series of questions which may be asked of the framer of this amendment and of the committee which reported it. I am rather anxious for a bill of particulars for the purpose of ascertaining how so extraordinary a power, new in parliamentary law, is to be exercised.

Heretofore in our Constitution, as has been said, there have been but two ways by which to bring together either House of the Legislature or to convene the Senate. One was by the terms of the provision which relates to the annual convening of the Legislature; the other is by the act of the Governor who brings them together in extraordinary session as a result of a proclamation issued by him. These are clear, definite methods. There is a mandate in the Constitution and we know just exactly how that mandate is to be issued. When, how, and by whom. But, under this provision, the Legislature may of its own motion, convene for the purpose of removing a judge of the Court of Appeals or a justice of the Supreme Court. When are they to be convened? What notice is to be given? What is the nature of the action? Where are the legislators to act? How many of the members of each House are to act? Are they to assemble in Albany, or in New York, or in Buffalo, for the purpose of bringing themselves together — for the purpose of convening themselves upon their own motion? Is a third of each House sufficient? Is a majority necessary? How can so important a matter as that be left to surmise when the office of judge of the Court of Appeals, or of justice of the Supreme Court, is involved? Why, it might be possible by such methods, such irregular methods as here suggested, to remove all of the judges of the Court of Appeals or all of the justices of the Supreme Court. Again, the next sentence is equally uncertain, vague, potential of mischief. The Assembly may of its own motion convene for the purpose of impeachment. That is a very great power. By what vote is the Assembly of its motion to convene? Who is to summon the members of the Assembly to come together? How are they to be summoned? What notice is to be given? Is it possible that a majority of the Assembly may on two days' notice, or one day's notice, come together in Albany and proceed to take action with regard to impeachment without giving any notice to the other members of the Assembly? Isn't it possible by means of such a provision as this, without a single safeguard, to bring about the greatest possible injustice, and in times of political stress to revolutionize the government of the State? I think that this is vesting a most dangerous power. In all other provisions of the Constitution there is definition; there is clearness of statement; there is no vagueness; there is no uncertainty; and yet, with regard to this great power of removal of judges, or impeaching the judges, or Governors, or those who have responsible positions in the government of the State, there is not the slightest safeguard, not the vestige, not the shadow of a precaution.

Mr. Wagner — Is there any provision in the Constitution now as to length of time when the Governor must issue his proclamation?

Mr. Marshall — He has to issue a proclamation. As a result of that, there has got to be notice given to everybody. That is required; but here you have not the slightest protection.

In the Sulzer case I had occasion to look into this question. The Court of Impeachment did not say that the Legislature had the right to convene itself. The Court of Impeachment decided in that case that inasmuch as the Legislature had been convened by the Governor in extraordinary session, that the Assembly might then proceed to impeach, and that, I can assure the gentlemen here, was a great stretch of power, but it was not decided that the Assembly might have convened itself.

And then, what about the Senate in case of impeachment? Is the Senate to convene itself in conjunction with the judges who are part of the impeachment tribunal to try those charges that have been formulated by the Assembly when self-convened? This provision is entirely silent upon that subject.

Mr. Barnes — In that connection, the Committee on Legislative Powers introduced a bill to carry out these provisions in regard to the meeting of the Court of Impeachment which has gone to the Committee on the Judiciary.

Mr. Marshall — That has not been reported?

Mr. Barnes — It has gone to the Committee on the Judiciary.

Mr. Marshall — At any rate, so far we are left to grope in the dark until we know what becomes of the impeachment charges, and whether or not the Senate is to convene itself, or the Court of Impeachment is to convene itself, and under such circumstances we had better pause.

Now, after a very careful study of this subject some few years ago,— I regret that I have not my material with me, although it can be found in the history of the Sulzer impeachment proceedings—I carefully examined all the parliamentary precedents, the entire history of impeachment proceedings, and I found that there was not a single statute, there was not a single Constitutional Provision which enabled any one of the two Houses, either the House of Commons in England, or the House of Lords, or in any of the states of the Union, the Assembly, or the House of Representatives, or the Senate to convene itself in any case, at any time, except in one Constitution.

That was the Constitution of Alabama, where, with respect to the impeachment of the Governor, there was explicit provision made with regard to this subject, and I commend to the consideration of the Committee on Legislative Powers, if they desire to put into the Constitution a clause of that kind, the provisions of

the Constitution of Alabama, which does contain every one of these safeguards to which I have called attention, and which are absent from the provision which has been reported by the Committee; and it certainly would cause one to pause, after reading that very carefully framed provision, before one considers favorably the passage of a clause framed as is the one which we are now considering.

Mr. Wagner — I understand you to say in answer to my question as to whether there was any provision for any specified notice for the calling of an extra session by the Governor, and I understood you to say that there were safeguards providing for time and so forth.

Mr. Marshall — I said that the Governor must issue a proclamation, and it is not necessary to fix a time with regard to a regular session of the Constitution, because that is specified. That of course, is automatic.

Mr. Wagner — The only provision that I see in the Constitution is, he shall have power to convene the Legislature or the Senate on extraordinary occasions?

Mr. Marshall — Yes.

Mr. Wagner — And that is all.

Mr. Marshall — But, there you have a mandate, issued by some authority outside of the Senate or the Assembly, or the Legislature, which is not a self-created mandate. They are not acting on their own motion. There is action by the Executive who has the responsibility of bringing them together, and it is necessary to give such notice as will bring them together. I want to make a further suggestion. When we come to phrase a constitutional provision, it seems to me that we ought to use constitutional language, and I now come to the last sentence. "At a meeting under this section no subject shall be acted upon except that for which the meeting is herein authorized to be held." What do they mean by a "meeting"? I hope they mean a session of the Legislature or a session of the Assembly, but I do not believe that anywhere in the Constitution, or in any Constitution has such a session ever been called a meeting. And what is a meeting under this section? Does it mean a session of the two Houses jointly or separately? Does it mean a session of the Assembly? And then, "except that for which the meeting is herein authorized to be held". Authorized by whom? Does it mean by the Legislature on its own motion, or by the Assembly of its own motion? Those are a few interrogatories which I am anxious to have answered before I shall be able to vote intelligently on this question.

Mr. Barnes — I should like to answer your questions, if I am able, Mr. Marshall. The principle which you enunciated, if I

understand it correctly, is that when the Constitution of the State, that is, the people, confer an exclusive power upon the legislative body, that then some other power must intervene between the people and the Legislature in order that the Legislature may perform its constitutional functions. That is apparently your argument.

Mr. Marshall — No, that is not my argument.

Mr. Barnes — We hold that there should be no power to intervene. We hold that where the people themselves in their Constitution have granted to the Legislature a power, that that Legislature, or that Assembly has, through that very power granted it by the Constitution of the State, the right to convene; and that the Constitution should not establish any intervening agency between it and the power granted to it directly by the people and under which it acts alone. I will answer you further. The use of the word "meeting" was used by the Bill-drafting Department for the purpose of distinguishing between a gathering of this kind, where the Legislature, or the Assembly, have this direct power from the Constitution itself, from what was known as a legislative session for the passage of laws or the performance of other functions in which the legislative acts co-ordinate. I trust I have answered, at least so far as our committee is concerned, the questions which Mr. Marshall has raised.

Mr. Brackett — I think it is well enough to get at the precise provisions of the present Constitution with a view of seeing what is necessary to be amended, if amendment at all is necessary, and the purpose that is to be subserved by the change. The Constitution now provides that the Legislature shall meet on the first Wednesday in January. It thus meets, under the provisions of the Constitution, without any intervening action by any one, the Governor or any other authority. When the first Wednesday of January comes, under the constitutional provisions, it is the duty and the prerogative of the members of the Senate on the one hand and of the Assembly on the other hand, to get together and organize for the purposes of the legislative session. In addition to that function clearly prescribed by the Constitution, there is vested in the Governor a power at the present time to convene the Senate, and the Senate only, in extraordinary session; and there stands at the present time, and there has never been any difference in the Constitution from the beginning, no way that the Governor can call together the Assembly in separate session, or alone. The only way that the Assembly can be gathered together at all is by proclamation, directing that both Houses of the Legislature convene. Now the manifest purpose of the provision allowing the Senate to be convened alone was because there were certain functions which the Senate performed, and which the Assembly did not

and does not participate in. It may be the confirmation of nomination of officers. Of course, that can run to a considerable length of business, but there is nothing which it was assumed the Assembly could do, or for which it should be called together separately from the Senate. That being the state of the Constitution in the year 1913, the Legislature of the State chanced to be in session upon the call of the Governor to consider certain proposed legislation. While the Assembly was actually then in session, it adopted articles of impeachment against the late Governor Sulzer and preferred those charges to the Senate. The point was immediately made by the distinguished counsel for the Governor, among whom was the gentleman from New York who has just spoken, that the Assembly could not thus adopt charges of impeachment against the Governor when convened in special session, because the call that had called the Legislature together was only for the purpose of considering direct primary legislation. The answer to that was patent and was at once made, that the power of impeachment was not a legislative power, and that the only prohibition against the Assembly considering any other measure than that recommended by the Governor under the special call, was as to the exercise of a legislative power, and that, therefore, when the Assembly found itself together, no matter how, it could adopt articles of impeachment, because the adoption of such articles was a judicial power and not at all a legislative one that came within the prohibition of the Constitution. The point was made, and it was only, however, by way of illustration, suppose that the Legislature had not chanced to be in session at the time the articles of impeachment were adopted,—or at the time it was considering the articles of impeachment, or they were pending, or that they were broached; and the answer was made to that, and I believe it was made correctly, that when the power was conferred upon the Assembly to adopt articles of impeachment, and, therefore, to initiate a judicial proceeding, that if the Assembly was not in session, it could from the necessity of the case and acting upon the rule that the safeguarding of the people was the supreme law, get itself together in any way it could. It became then the duty of each individual member of the Assembly, mindful of the fact that circumstances existed which called for, or might call for the adoption of articles of impeachment, to get in touch with his fellow members and somehow to get together and pass on the subject, whether or not the articles should be adopted. I believe that finally, if it should become necessary, from the very necessities of the case, that rule would have to be applied and it would have been applied had it been necessary to decide it in the Sulzer case. But, it was not necessary to decide it there, because as I again call to your attention, the Legislature happened to

be in session at the time and the articles were adopted at such session, and they escaped the injunctive provision of the Constitution that at special sessions, no matter should be passed upon by the Assembly except that recommended by the Governor, by the fact that that provision only provided for legislative matters and not judicial. What, then, should be the fate of this amendment? I am not now speaking of the precise verbiage and I do not care; if the distinguished delegate from New York will prepare a better verbiage I will be glad to vote for it, but it is a wise thing that a provision of this kind should be inserted in the new Constitution in order to save and save entirely that contention that there is no way for the Legislature to get together for the purpose of adopting articles of impeachment. Suppose the time should come—God knows I hope it never may come, but I cannot hope that it never may come in the future any more than I could have hoped that it would not come in the past—that we have an actually crazy Governor so far as his conceptions of the functions of the Governor go? It ought not to be left to the argument of necessity that the Assembly has the power to get together for the purpose of adopting impeachment articles—there ought to be a clear, distinct and ringing provision in the Constitution that the Legislature, the Assembly, shall have the power to convene itself and then let the Legislature seek the method of procedure. Let it be done either by joint resolution, or let it be done by the Speaker, or let it be done by the Clerk, making it mandatory whenever a certain number of the Legislature shall request it to be done—

Mr. Marshall—Is the gentleman aware of the fact that under this provision the Assembly may convene itself not only with respect to the impeachment of the Governor, but with respect to the impeachment of any State officer, or any judge, or all of the judges?

Mr. Brackett—Well, Mr. President, that, to my mind, makes it a little better. Now, the gentleman may hold that up as a bugbear to me. I want to stand up here for the proposition that what we want is not fewer impeachments, but more impeachments; not less regulative action upon the officers of the State, but more, and if this permits the Assembly to get together for the purpose of impeaching any or all of the officers of the State, I hope it will have the effect of keeping a lazy, inefficient or corrupt judge or officer up to the point where it will not have to get together, and if it does not have that effect, I want them to get together, and I hope it will be the opinion of this entire body, without exception, that the power of impeachment should be made easier, and that if there is any possible mystification, it should be simplified, and that it be understood that whenever and wherever

a faithless officer exists, it rests within the power of the Legislature to see that it will institute proceedings to rid the State from his inefficient and hateful service. Now this, therefore, until something better can be suggested in the way of verbiage, should pass this Convention, and leave it to the Legislature as it ought to, to provide details as to how the intent of the Constitution shall be attained. The other section of the amendment, the one relating to the Senate itself, I want to call the attention of the members of the body to this fact, that in answering the question of the gentleman from New York, Mr. Marshall, as to what the Senate can do, the provision of the present Constitution is that the Assembly having adopted articles of impeachment, not that it shall send them to the Senate, but that it shall send them to the President of the Senate, wherever they can find him, whether he is playing golf down on his golf links, or handling the plow up in Saratoga county. Having received these articles, the President of the Senate, in his own proper person, and not the Senate at all — having received those articles, then it becomes the duty of the President of the Senate to call together the members of the Senate for the purpose of fixing a time and place of hearing, and that only, and I therefore want very respectfully but very earnestly to dissent from the conclusion of the learned gentleman from New York and stand on the proposition that this or some cognate proposition shall pass this body, to remove any possible doubt of the right of the Assembly to get together.

Mr. Marshall — Is it your earnest desire now to validate an unconstitutional trial, and, by *ex post facto* provision in our Constitution, give life to a proceeding which from the beginning was devoid of vitality?

Mr. Brackett — Mr. Chairman, I never yet conducted an autopsy, and I never conducted an autopsy on a corpse that is three years old, and please God I never will. The late Sulzer was convicted by the highest court that ever convened in the State; he was convicted after the most careful and adequate trial; he was convicted after the provisions of the Constitution had been obeyed to the letter; he was convicted on testimony that was overwhelming; he was convicted upon testimony that made every decent man want to hold his nose and blush for shame to think that anybody who ever reached the office of Governor should have been guilty of the practices of which he was guilty. He was defended by the most learned counsel in all the State, and the State was so pleased with their services rendered to this man thus convicted that they saw to it that the compensation was equal to that of the men who served on the other side, and I hope there will be

no more inquiry as to whether I want to validate those proceedings. I am estopped at this point because the learned counsel for the defense in that case received fees for their services.

Mr. Marshall — Will not the distinguished gentleman from Saratoga state the fact, namely, that not a single one of the counsel for the defense asked for a penny for his services from the Legislature, or from any other person, and that whatever payment was made was due to the generous intervention by the counsel for the prosecution?

Mr. Brackett — Mr. Chairman, I don't think the distinguished gentleman or any one of his associates ever asked or suggested that it should be done. It was done because of the great service they thus rendered the State in the conviction of the gentleman. The law of impeachment was recognized; the validity of the law of impeachment was recognized, and the State could well afford and did afford —

Mr. Barnes — Mr. Chairman, I rise to a point of order.

The Chairman — The gentleman will state his point of order.

Mr. Barnes — My point of order is that consideration of this proposed amendment is unrelated to past phases of politics of the State, but it is based on a method of impeachment. The Sulzer trial is not related to the question.

The Chairman — The point of order is well taken.

Mr. Brackett — That point of order is a little late.

Mr. A. E. Smith — I appreciate the point of order, and I don't want to get into that discussion, but I want to tell the Senator from Saratoga that the men who claim to have made the greatest defense of Sulzer are still knocking at the legislative doors for their fees.

Mr. Wickersham — I would like to ask the Chairman of the Committee on Legislative Powers whether the amendment as now before the House was prepared by the drafting officer of the Convention?

Mr. Barnes — It was. After several drafts were considered, it was finally taken to the bill-drafting department, and the one which is before you is the final draft as made by the Department.

Mr. A. E. Smith — The Committee on Legislative Powers spent considerable time in the study of this amendment. This bill in its original form was entirely different from the bill as presented to-night, and to-night's bill is the result of a great deal of thought and study by the Committee, supplemented afterward by the activity of the bill-drafting department.

Now, I just want to answer Mr. Marshall.

It would be presumptuous indeed on my part to attempt an argument with him on a legal question. I will not do it while

the Convention is in session. But this seems to me too simple to be a legal question. It is just common sense and business. He was in the Convention of 1894, and I would like to ask him what the Convention meant when they said the Assembly shall have the power of impeachment upon vote of a majority of all the members elected. Did they mean that power could only be exercised while the Legislature was in session, unless one of the men it could impeach should call them back to do it?

Mr. Marshall — It was not introduced into the Constitution in 1846, it was practically taken from the earlier Constitution but it undoubtedly meant, as I claimed, that the Assembly would have to be in session in the regular course of business in its annual session, or it would have to be called in conjunction with the Senate by an extraordinary proclamation of the Governor, pursuant to the provisions of Article IV of the Constitution, and I contend that the correct interpretation, according to my contention, is that if the Governor called together the Legislature for one purpose, for one subject, it could not act upon any other subject, and that the Constitution did not provide for legislation, but for any subject which is moved; impeachment, if impeachment was the subject for which it was called together; and that it should not include impeachment if they were not called together for an impeachment.

Mr. A. E. Smith — That naturally prompts this question. Does not the gentleman from New York believe that the Assembly should have the right to impeach at any time during the year when they find the Governor guilty of an impeachable offense?

Mr. Marshall — If constitutionally called together for that purpose.

Mr. A. E. Smith — How can they be, if he is the man to do it?

Mr. Marshall — Then it must wait until the following year, unless you amend your Constitution, but it should be amended in such a way that there shall be no possible doubt as to the meaning, and not result in gross abuses. That is what I am warning against in the criticisms which I make of this draft of the provision.

Mr. Wickersham — Was not the point which the gentleman makes here made at the trial of Mr. Sulzer?

Mr. Marshall — The point made was that there had been no proper convening of the Legislature in extraordinary session, for the purpose of acting upon the subject of impeachment. The court decided that, although it was not called together for that purpose, it could act on that. Having been called together, whether for one purpose or another —

Mr. Wagner — I wanted to correct your statement. The court was not called upon to pass upon the question as to whether the Assembly could have met at any other place or time.

Mr. Marshall — That was not the question put. The question put by Mr. Wickersham was whether or not the court decided it had jurisdiction to deal with the subject of impeachment. My answer was that the court so decided. That was the only question that was actually presented or could very well be presented, although in argument I took the position that it would be practically holding that the Legislature could convene itself, if it could, contrary to the provisions of the Constitution, deal with a subject which was not referred to in the call for an extraordinary session of the Legislature. On that, the court found that it had no occasion to pass, holding that, having been brought together in extraordinary session, they could assume to act on any matter they desired to act upon notwithstanding the fact that it was not within the language of the Constitution, the subject for which they were convened.

Mr. Wagner — I think the delegate used unfortunate words, and thus might mislead the Convention as to what the court decided, having been constitutionally called, that they could act upon the matter of impeachment. The question as to whether they could convene at any time, was not passed on at the time.

Mr. Marshall — I have already answered that twice, that the court did not decide that question. Article IV, Section 4, reads, the Governor "shall have power to convene the Legislature, or the Senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the Governor may recommend for consideration. . . ." It does not, as the distinguished gentleman from Saratoga states, it does not refer to legislation, it refers to "no subject . . . except such as the Governor may recommend." Our contention was that impeachment was a subject not contemplated or referred to in the call for an extraordinary session. It was not recommended for consideration.

Mr. A. E. Smith — Mr. Chairman, I want to renew my question to the gentleman from New York: Does he believe that the power should be given to the Assembly upon its own motion to convene for the purpose of impeaching a Governor, if he commits an offense that warrants it? Does he, in view of his experience, believe in the other part of the Constitution that limits the Assembly to the subject sent to it by the Governor?

Mr. Marshall — Most decidedly not, I think it a more dangerous thing to enable the Legislature or the Assembly to convene itself upon its own motion than to have even a corrupt Governor for a few months longer than you might desire to have him.

Mr. A. E. Smith — Then, Mr. Chairman, why did not the gentleman in 1894 ask that Constitutional Convention, when he read, "The Assembly shall have the power of impeachment by a vote of two-thirds of the members elected"—and it stops there—why not have asked that Convention, When, Where and How?

Mr. Marshall — My answer to that is that nobody dreamed that anything could occur so outrageous as that which occurred in 1913.

Mr. Barnes — Am I to understand you believe that the only question in this Proposed Amendment is that the Constitution, having granted a power to the Legislature, or to the Assembly, that then the Legislature should exercise the power which has been already granted to it, without intervention on the part of any other agency?

Mr. A. E. Smith — Exactly. I think it ought to be made clear.

Mr. Barnes — That, as I understand it, is the only question involved. I understand that if this Convention desires to take away the power of impeachment from the Legislature, and vest it with some other body, well and good; but it is inconceivable of belief that the Constitution should have granted a power and then prevented its use. You will pardon me.

Mr. A. E. Smith — When a member of the Assembly takes the oath of office and, without any regard to what the gentleman from New York thinks of the crime of 1913, there were a great many people in this State on the other side of this question, who felt that a great crime would have been committed to permit that thing to go on another minute—and if we were to be deprived of the right to come together, and deprived of the power—

The Chairman — The gentleman from New York will confine his remarks to the question at issue.

Mr. A. E. Smith — I am talking entirely within the subject matter: It is ridiculous, ridiculous to give power to the Assembly to impeach the Governor, and in the next moment say that that power shall only be exercised when he sends in a message requesting it. Now, let us rub out the law altogether, and let us talk common sense. I am willing to go far enough as to say that some of the Governors I know, you couldn't impeach them, and you could not impeach any of their friends, if it was left to them to send in a message. What a proclamation that would be to come from the Executive Chamber: "Pursuant to the powers vested in me by section and article so-and-so of the Constitution, I hereby convene the Assembly in extraordinary session for the purpose of

preparing articles of impeachment against me"! It is ridiculous. I am of the belief, and I am of the opinion that the Assembly, seventy-six members of the Assembly, so far as impeachment is concerned, could meet any place in the State of New York that they liked —

Mr. Marshall — That is what I am afraid of.

Mr. A. E. Smith — Well, I am not. I am not a bit afraid of that. I never saw seventy-six men make a mistake in this room yet. My judgment may have been that they were wrong, but it has panned out pretty good. I believe that they can get together any place. I believe that they would have the same power that the Legislature had to go over to the City Hall building and declare it the Capitol of the State when this building was on fire. You were not very specific with the granting of the power. Why not let us cure it? It has not been abused. It has been used in the interest of the State. Wisely used. Unqualified, give us the right to come into session; or let us take away the power from the Assembly entirely and vest it in the Court of Appeals. They are in session, or can be in session, at any time. Do not, do not leave the ridiculous provision in the Constitution that for four months in the year the Assembly has the power to impeach the Governor, and then has to lie down until his term of office is all over, unless he calls them together to do it himself.

Mr. Schurman — Mr. Chairman, I think this question will in a measure serve to test our attitude towards the whole purpose of constitutional amendment. I am one of those who believe in dealing tenderly with the Constitution. Unless some defect can be shown, I believe in preserving it unchanged. Consequently when this amendment was first submitted to the Convention, and I had an opportunity of studying it, I opposed it in consequence of its contradiction to that position which I had laid down as to dealing with proposed constitutional amendments. The first form of this particular proposal provided that the Legislature may, on its own motion, convene in extraordinary session to consider and act upon any subject within its jurisdiction other than a bill or a Proposed Amendment to the Constitution. I asked myself and I asked others what need there was of such a change. The only definite reply I could get was that since the last Constitution was adopted, we had had certain impeachment proceedings, in reference to which the Constitution had shown a certain inadequacy. Then I said, why should we change the Constitution so as to authorize the Legislature to convene and exercise not merely the functions which it possesses in reference to impeachment, but any other functions whatever, except the enactment of a bill or the proposing of an amendment in the Constitution?

Now, I was satisfied that that position was sound and I, for one, refused so far as the original proposal was concerned to deviate from that attitude. But time does develop defects in a Constitution, and, as Bacon has said, if men do not change them for the better, time itself changes them for the worse. One defect within the last few years has appeared obvious in this Constitution in connection with impeachment proceedings. An official of the State could be impeached only because, the gentleman from Saratoga says, because of the accident of his having called the Legislature into extraordinary session. That was a coincidence which we could not expect to present itself, frequently, at any rate, in the course of future years. And so it seemed obvious that we had here the event which it was the duty of this Constitutional Convention to meet. How, then, could it be met? So far as the Legislature was concerned, it was in session three or four months of the year automatically by a definite provision of the Constitution, and it was in session at other times only when the Governor should convene it, and as the gentleman from New York, Mr. Smith, so impressively said, no Governor would convene the Legislature in extraordinary session for the purpose of bringing about his own impeachment. The Committee on Legislative Powers, therefore, proposes to remedy this defect, and, Mr. Chairman, I submit that they have provided a remedy which is adequate to the evil and proper and suitable in itself. It may well be that it would be necessary, before you get through with it, to make minor changes, as, for instance, in the phrase, "of its own motion," but so far as the fundamental proposition embodied in this amendment is concerned, there surely can be no doubt that if the Legislature, in some cases, and the Assembly in others, is to have the power of impeachment, then means must be found for calling it together, not merely for four months of the year when it happens to be in session, but for the remaining eight months of the year. That, and that alone, is what this Proposed Amendment aims to accomplish, and, in my judgment, it is a perfectly reasonable and adequate measure for that object.

Mr. Hinman — May I say, Mr. Chairman, that I fully approve of the fundamental principle. I believe that the Legislature, if given a function to perform by the Constitution, should be permitted to perform that function, irrespective of any other power, but I agree with Mr. Marshall in his original contention that the rules should be very clear as to the machinery of operation. I believe it should not be subject to judicial interpretation, or more than one judicial interpretation, as to the method of the exercise of that power, so that there should not be any excuse or any opportunity for an abuse of the machinery for its exercise, and I therefore rather agree with the original contention of Mr. Marshall that the language, "of its own motion," is not sufficiently clear.

Mr. Root — Mr. Chairman, I think that we ought to make the process of impeachment less clumsy and difficult. I do not see how those of us who have been opposing the adoption of the expedient of the recall upon the ground that the remedy already provided by way of impeachment is adequate, can refuse to take such steps as shall render the process of impeachment more adequate, more simple, more competent to deal with public officers, who do not faithfully perform their duties. It seems to me that this is a step — not a very great one, but still a step in that direction. I see no reason why during the greater part of every year that remedy should be impossible. It has occurred to me that the objection which Mr. Marshall has urged against this amendment might be met. The objection is that great abuses might follow; that the Legislature might meet of its own motion, or the Assembly might meet of its own motion, upon particular occasions, urged by some special purpose to commit an injustice. Now that can be met entirely if we require rules to be prescribed under which the meeting shall be held. It is difficult to frame, upon the floor of a deliberative body, amendments which ought to be adopted after more deliberate scrutiny; but it seems to me that if something of this kind could be put in — perhaps not this but something like it — it might meet the objection which Mr. Marshall has voiced if it were to read: “The Legislature may, of its own motion, under such rules as it shall have prescribed by law,” convene to take action in the matter. And then when you come down to the Assembly: “The Assembly may, of its own motion, under such rules as the Legislature shall have prescribed by law, convene for purposes of impeachment,” and then the way is open to have a regular course of proceeding followed, resulting in the convening of these bodies for these purposes without their having to go outside of the limits of the bodies in which the Constitution vests the power for the liberty to exercise the power. Now I do not want to move those amendments, but I suggest that the Committee on Legislative Powers take into consideration the question whether something of that kind might not obviate the more serious objections that have been made to the amendment.

Mr. Wagner — When you say “under such rules as it shall have prescribed by law”, do not you require there the approval of the Governor who is not a member of the Legislature?

Mr. Root — It could be “by joint resolution”; that would be better.

Mr. Barnes — It was the thought of the committee that, no matter what statute might be enacted as to the method of the convening — rule or statute, it would be the same — there could be no power to take away from the Legislature or the Assembly the

power to convene given them by the Constitution, and no statute could possibly control by rule the power which the Legislature or the Assembly has under the Constitution as it now exists. The object of this amendment was simply to make clear to all the people the existence of this power. As the hour is growing late and as we have gone into this subject fully, I move that we rise, report progress and ask leave to sit again.

Mr. Brackett — I hope, Mr. Chairman, that the motion will be withdrawn. I say that only and solely in the interest of the conservation of time. If a motion that the committee shall report the bill favorably can be adopted, it would go to the Convention; it can then be amended there or recommitted. If this motion is adopted, it means that we must chew this all over again. Now don't let's do that. We have got the point of view of the Committee, I believe. Let us put it a step forward into the Convention and I believe that language can be formulated where the amendment can be made very closely on the lines proposed by the President of the Convention, if not exactly, without going to the trouble of referring it back to the committee.

Mr. Barnes — If the committee is ready to take a vote, I withdraw the motion.

The Chairman — The motion is withdrawn. The question is upon the motion of the gentleman from Onondaga, Mr. Smith, which is that when the Committee of the Whole arises, it report favorably the Proposed Amendment which has been under discussion. Those in favor will say Aye, opposed No. The motion has been carried.

Mr. Wickersham — Mr. Chairman, I move that the committee do now arise.

The Chairman — The gentleman from New York, Mr. Wickersham, moves that the committee do now arise. Those in favor of the motion will say Aye, opposed No. The motion has been carried.

(The President resumes the Chair.)

Mr. J. S. Phillips — The Committee of the Whole have had under consideration certain Proposed Constitutional Amendments moved upon the calendar and have directed me as their Chairman to make the following report.

The Secretary — The Convention resolved itself into Committee of the Whole and proceeded to the consideration of General Orders, being proposed amendments entitled as follows: No. 410, introductory 289, by Mr. R. B. Smith. Mr. Phillips from said committee reported in favor of the passage of the above proposed amendment, with amendments.

The President — The question is upon agreeing to the report of the Committee of the Whole. All in favor of agreeing to the

report will say Aye, contrary No. The report is agreed to and the amendment goes to the Committee on Revision.

The Secretary — No. 376, Introductory number 78, by Mr. Austin. Mr. Phillips from the said committee reported in favor of the passage of the Proposed Amendment, with amendments.

The President — The question is upon agreeing to the report of the Committee. Is the Convention ready for the question? All in favor of agreeing to the report of the Committee will say Aye, contrary No. The Ayes have it, the report is agreed to and the Proposed Amendment goes to the Committee on Revision.

The Secretary — No. 700, Introductory No. 275, by Mr. R. B. Smith. Mr. Phillips from the Committee of the Whole reported that when the Committee arises it recommends that the Proposed Amendment be recommitted to the Committee on Legislative Powers.

The President — The question is upon agreeing to the report of the Committee of the Whole, which is to recommit this amendment. All in favor of agreeing to this report will say Aye, contrary No. The report is agreed to and the Proposed Amendment is recommitted to the Committee on Legislative Powers.

The Secretary — No. 734, Introductory number 291, by Mr. R. B. Smith. Mr. Phillips from said committee reported in favor of the passage of the proposed amendment.

Mr. Barnes — In view of the suggestion made by the President of the Convention in regard to this bill, I should think it would not be necessary to recommit it to Legislative Powers as some gentlemen here have suggested but that the Committee on Revision could handle it just as well as the Committee on Legislative Powers; and, therefore, although there was some idea that possibly the subject should be recommitted, it seems to me that the Committee on Revision can handle it as well as our own Committee and therefore I wish to make that statement.

Mr. J. S. Phillips — Mr. President, I would suggest that the report should not be amended. I doubt whether the Committee on Revision would have power to make that amendment but I think under the rules it might be done upon third reading.

The President — Only by recommitment. It is necessary to recommit.

Mr. J. S. Phillips — I doubt whether the Committee on Revision would have power to make that change.

The President — I doubt whether the Committee would have that power.

Mr. Barnes — I move that the bill be recommitted to the Committee on Legislative Powers, holding its place on third reading.

Mr. J. S. Phillips — Mr. President, I don't know whether this would be the correct procedure, but it seems to me that when it

was reached upon third reading such a motion might be made, that it be recommitted to the Committee on Legislative Powers, with instructions to amend and report forthwith.

The President — The motion made by the gentleman from Albany, Mr. Barnes, is equivalent to a motion to agree to the report to recommit the bill to the Committee on Legislative Powers, holding its place on the order of third reading.

Mr. Brackett — I want to make this suggestion. If there be no motion made now at all, the Committee on Legislative Powers shall consider if they want to make any change in the verbiage; if they do, the Chairman should then come in here when they have agreed on the verbiage and shall then make this motion, that the bill be recommitted to the Committee on Legislative Powers with instructions to amend as indicated by the verbiage which he hands up, and report forthwith, which is the proper motion when we are in the Convention. It needs no motion now to do that because the Committee can consider its verbiage without any reference to it.

The President — Is that satisfactory to you, Mr. Barnes?

Mr. Barnes — It is entirely satisfactory to me, I am entirely satisfied with the phraseology as it is.

The President — The question is upon agreeing to the report. Is the Convention ready for the question on agreeing to the report of the Committee of the Whole? All in favor of agreeing to the report will say Aye, contrary No. The report is agreed to and the amendment goes to the Committee on Revision.

Mr. Schurman — By unanimous consent, Mr. President, I should like to present this report of the Committee on Education.

The President — Is there objection to the reception of the report of the Committee on Education? The Chair hears none and the report is received. The Secretary will read the report.

The Secretary — Mr. Schurman, from the Committee on Education, to which was referred Proposed Amendment by Mr. Linde, No. 67, introductory No. 67, entitled: "Proposed Constitutional Amendment. To amend Section 1 of Article IX of the Constitution, relating to education;" and Proposed Amendment by Mr. Schurman, No. 525, introductory No. 513, entitled: "Proposed Constitutional Amendment. To amend Section 1 of Article IX of the Constitution, in relation to the supervision and control of education by the State;" reports by Proposed Amendment entitled: "Proposed Constitutional Amendment. To amend Section 1 of Article IX of the Constitution, in relation to the supervision and control by the State of the education of children." The Committee on Education requests that such Proposed Substituted Amendment be referred to the Committee of the Whole.

The Secretary — Second reading. To amend Section 1 of Article IX of the Constitution, in relation to the supervision and control by the State of the education of children.

The President — The question is on agreeing to the report of the Committee on Education. Is there any disposition proposed of the bill reported by the committee? If no other disposition is moved, the bill will be referred to the Committee of the Whole and is so referred.

Mr. Tanner — I ask unanimous consent to present the following report from the Committee on Governor and Other State Officers, out of order.

The President — Is there objection? The Chair hears none and the report is received.

The Secretary — Proposed constitutional amendment (No. 729, Int. No. 4), by Mr. J. G. Saxe, was transmitted to the Committee on Governor and Other State Officers for information and opinion. The Committee, after deliberation, reports unanimously that, in its opinion, the proposed amendment should not be adopted for the reason that a provision compelling the people or political parties to make nominations for political offices in a specified way, whether by convention, direct primaries, or otherwise, is not a proper subject for constitutional provision.

Mr. Brackett — Mr. President, in the absence of the delegate who is the proposer of the amendment, I ask that this report lie on the table until he shall be in the Chamber.

The President — Without objection, that course will be followed.

Mr. Wickersham — I move the Convention adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye. Contrary, No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 11:00 p. m., the Convention adjourned to meet at 10 a. m., Tuesday, July 20, 1915.

TUESDAY, JULY 20, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. H. Dykheizen.

The Rev. Mr. Dykheizen — Let us pray. Lord, God Almighty, Maker of Heaven and Earth, Father of all mankind, in Thy divine and kind providence, Thou hast again permitted us to resume the duties of another day. We thank Thee for Thy care and keeping in the night past, and ask Thy continued guidance upon all the efforts and upon all the manifold duties before us. We pray Thee, as the duties increase and in proportion as our responsibilities and interests and efforts are increasing, that Thou wilt grant the needed wisdom unto each and everyone of us in the performance of the many duties before us. We would pray Thee, Lord, that Thou wilt grant Thy spirit unto us, take away the spirit of selfishness from us, grant us an understanding heart and a willing mind to do our work conscientiously, diligently, efficiently and fearlessly, always seeking the approval of our God, the Eternal Judge. Bless these men in this Convention, oh, our God, may they feel their responsibility and may they realize that they have a great work to do and that thus their efforts may result in a product which is greatly beneficial and for the general welfare of the State which they represent. Bless this our State, the Governor and all those in authority with him. Bless our President and his advisors. Grant, oh, Lord, that he may steer the Ship of State clear through these troubled waters; that it may be for the welfare of mankind, for the welfare of all the world and that soon again peace may reign. We ask it in Jesus' name. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the State Engineer and Surveyor, in response to a resolution of the Convention, which will be referred to the Committee on the Judiciary.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. J. G. Saxe — Mr. President, I understand that last night an opinion from the Committee on Governor and Other State Officers was laid on the table, in view of my unavoidable absence, and I suppose that this is a proper time to make such

motion in connection therewith as may be advisable, and I move that that opinion be sent to the Committee of the Whole, to be taken up at the time I move my Proposed Amendment to the Constitution. In that connection I would like to say this, that I introduced my Proposed Amendment on April 27th. The amendment was referred to the Committee on Suffrage, which has been holding hearings steadily from that date down to Wednesday of last week, when we had a long executive session, the second executive session on this subject, and considered that amendment. We have held two public hearings on that proposed amendment and have heard the opinions of a great many different people in respect thereto. On April 27th Mr. Tanner arose in this Chamber and read off a very considerable list of amendments which he asked to be referred to his committee, the Committee on the Governor and Other State Officers, for their information and opinion; and inasmuch as they wanted to have certain information and to render certain opinions, no one objected to the long list of proposed amendments being sent to that Committee, and among them I find was my amendment.

Now, that Committee, so far as I know, has not held a hearing, not a single hearing upon my proposed amendment. That Committee has not even done me the courtesy of asking me to appear before that Committee and make my statement for whatever it may be worth before that Committee. As far as I know, they took no action from the day Mr. Tanner solicited leave to make an opinion on it down to last Thursday, when they had a roll call, and incidentally voted one or two proxies in order to get their unanimous report.

Now, I shall, at the proper time, when the bill is reached in general orders, present in my feeble way the arguments which have been made by a great many others and by myself in favor of that amendment. I have not the slightest objection to anybody or any committee rendering any opinion they want. Possibly Mr. Tanner's committee is right in its opinion. Possibly we, of what I believe to be the great majority, are right in our opinion. The majority leader has appeared before that Committee and expressed his opinion. Mr. William D. Guthrie has appeared before that Committee, and made, I think I may say, the most eloquent and forcible speech which I have yet heard in Albany.

This morning I received, absolutely unsolicited by me, a communication from the United Real Estate Association of New York City, stating that they were heartily in favor of this amendment and asking if we did not want them to express their opinion, and I wrote back that "everybody is expressing their opinion and

we would be glad to have you express yours." This will be fully debated when, in due course, I move the amendment in general orders, and I suppose this *ex parte* opinion will be called up in general orders along with the proposed amendment.

Mr. Tanner — I second Senator Saxe's motion and ask the leave of the Convention for just a moment to explain what was done. I do not care to go into the merits of this proposition until we take it up in full. The amendment came before our Committee on July 8th. The Chairman of the Committee on Suffrage, Mr. Cullinan, is also a member of the Committee on Governor and Other State Officers. At that time we voted against this proposition by practically as large a vote as we had on Friday. Of course, out of courtesy to the other committee, we made no report of opinion, but did this for whatever it might be worth in the way of guidance to the Committee on Suffrage.

Now, Senator Saxe knows perfectly well that no intended slight was given at this time. The Committee on Governor and Other State Officers has something like 130 amendments before it, and there has been, if my recollection serves me correctly, no instance in which, when an amendment was referred secondarily to our Committee, we have had a public hearing on it.

We did not vote any proxies the other night. It was simply a full meeting to discuss this more thoroughly, in which Democrats and Republicans joined. If there are any gentlemen who want to change their votes, of course there will be opportunity to do so.

There has been nothing done by indirection and no discourtesy shown. If we had given a hearing on every amendment which was referred secondarily to us, we would not be through here by November, but the Committee has made a unanimous report, and the reasons for that report, Mr. President, will appear more fully when we debate the subject on the merits.

It is a report that is aimed directly at the Saxe amendment and nothing else. It has nothing to do with the principle involved, whether we believe in the direct primary system, or some other system. I simply want to have the attention of the Convention called to the state of facts as it exists.

Mr. Wickersham — I think the question arises as to what is the proper disposition to make of reports of this nature. I do not understand that they go to general orders. It is my opinion that they lie on the table and may be called up for the information of the Committee of the Whole when the subject is under discussion; and if reports of this kind are to be referred to the Committee of the Whole, we will have them rather in the nature of minority or concurring reports, and somewhat of a confusion will arise, and for that reason, I hope the motion will not carry.

and that the report will lie on the table and be called up for consideration in the debate over the amendment.

My own views in respect to the principle involved are known. As to the particular provision of this bill, I do not agree with Mr. Saxe and will not support his bill, but that is entirely beside the mark.

Mr. O'Brian — Mr. President, I also trust that this motion will not carry, because of the interest of orderly procedure in this body. The status of an opinion rendered by a committee in this way should be defined I think at this time. When a proposed constitutional amendment is referred by the Chair it is referred to a committee having primary jurisdiction over that subject. The rules of the House do not contemplate this practice, which is an admirable practice, by the way, of referring matters for opinion to other committees who have jurisdiction over a part of the subjects, consequently the reports, strictly speaking, which are contemplated by the rules are reports made by the committee which has real jurisdiction over the matter. The report or such it was called last night, of the Committee on Governor and Other State Officers, expressing an opinion is, technically speaking, not a report. It is simply, as the delegate Wickersham has pointed out, it is simply a statement of opinion for the information of the members of the House. No matters that are statements of opinion — while it is competent for the House to do anything it chooses with this motion this morning, general orders should not be lumbered with statements of opinion however excellent those opinions may be. The proper procedure, as I view it, is for an opinion rendered by a committee to be sent to the desk and read, spread upon the record, and then when the House goes into general orders it takes up the report, the report of the committee which has been designated to discuss this subject. Then the proper procedure is for any member to call up that opinion and have it read again for the information of the members. The term "general orders" assumes a general calendar of matters which are to receive affirmative or negative action by the House in the promotion of constructive legislation. It does not contemplate a calendar upon which there shall be entered by title opinions of members or opinions of committees which, if the House acted upon them by affirmative or negative action, would promote no constructive measure and would not advance it or check it. I therefore object and think it is out of order for a motion of this sort to be made.

Mr. J. G. Saxe — Mr. President, I entirely concur with what the delegates, Mr. Wickersham and Mr. O'Brian, have said, so long as it is distinctly understood that this is merely an *ex parte*

opinion of that particular committee and is not a report, such as it was designated last night, and I will, with the consent of my seconder, withdraw my motion and permit the opinion to lie upon the desk.

The President — The Chair will take the liberty of stating, for the benefit of the procedure of the Convention, the view he takes of the point of order made by Mr. O'Brian and suggested by some of the other delegates. The report of an opinion by a committee on a subject, primary jurisdiction over which is in another committee, does not appear to be a matter to be committed to the Committee of the Whole under the terms of the rules. It is not a substantive matter for the Convention to act upon. It is for information to the Convention for its assistance in passing upon the substance of the matter. In this case the matter on which the Convention is to pass is the Proposed Amendment to the Constitution proposed by the Committee on Suffrage. The opinion of the Committee on Governor and Other State Officers is relevant to the consideration of that matter and that opinion is in the possession of the Convention and will therefore be in the possession of the Committee of the Whole when that Committee comes to consider the Proposed Amendment reported by the Committee on Suffrage.

Mr. Tanner — I fully concur with the statement made by the President. This is properly a matter for the information of the Convention and I therefore move that the report of this opinion be printed as a document to be distributed.

Mr. Wickersham — I object, Mr. President.

Mr. Quigg — Regular order, Mr. President.

The President — The regular order is the call of the roll of districts.

Mr. Brackett — May I ask a single question for information, Mr. President? Did I understand the Chair to say that the resolution or the report of the Committee on Governor and Other State Officers went into general orders?

The President — The Chair did not so state.

Mr. Brackett — I wanted to beg the indulgence of the Chair and express the hope that that rule might not be made.

The President — The Chair stated the precise contrary, that it was not substantive matter for reference to the Committee of the Whole. The order of business, the regular order, will be the call of the roll of districts.

Mr. Wagner — A question of information. Did I understand the Chair to hold that this report lying upon the desk as a report to the Convention may be called up by the Committee of the Whole at its meeting?

The President — The Chair ruled that that is not a substantive matter for consideration or for reference to the Committee of the Whole, but is a matter for the information of the Convention. It is in the possession of the Convention and therefore it will be in the possession of the Committee of the Whole for its guidance and information in the consideration of the substantive matter to which it is relevant.

Mr. Quigg — Mr. President, I call for the regular order.

The President — The regular order is called for. The Secretary will proceed with the call of the roll of districts.

Mr. Austin — Mr. President, I offer the following resolution which I suggest should be referred to the Committee on Contingent Expenses.

The Secretary — By Mr. Austin: Resolved, That the Secretary of the Convention be instructed to place upon the desks of the members daily in separate files the amendments which are upon the third reading or general orders calendar, arranged in the order of their appearance thereon.

The President — Committee on Contingent Expenses.

Mr. Austin — Mr. President, I simply wish to call the attention of the members of the Convention to the fact that this will facilitate the work of every member of the Convention very greatly and the expense connected with it will be practically nothing. I hope the Committee will consider that resolution at a very early date.

Mr. Westwood — Mr. President, I move that the Committee on Taxation be discharged from further consideration of Proposed Constitutional Amendment, print No. 436; that the proposal be amended as indicated by the paper which I will send to the desk and that it be reprinted and recommitted to that Committee.

The President — Mr. Westwood moves that the Committee on Taxation be discharged from further consideration of Proposed Constitutional Amendment No. 436; that the proposed amendment be amended as indicated and recommitted to the same committee. All in favor will say Aye, contrary No. The motion is agreed to.

Reports of standing committees.

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

Mr. Wickersham — Mr. President, I move the call of the calendar in general orders be suspended in order that the Committees may have the day entirely for committee work.

The President — It is moved that the call of the calendar of general orders be suspended. All in favor will say Aye, contrary No. The motion is agreed to.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:28 a. m., the Convention adjourned, to meet at 10 a. m., Wednesday, July 21, 1915.

WEDNESDAY, JULY 21, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, our Heavenly Father, Creator of all men, and in whose hand for some great and gracious purpose are all the peoples of the earth, in Thy wisdom Thou hast variously endowed the different nations so that each one has been able to make some worthy contribution to universal civilization. We thank Thee for the men of light and leading, who have arisen from the different peoples of the earth, and by the force of their mind or the fervor of their heart, or the skill of their hand, have brought some enriching gift, making the peoples of the earth wiser and nobler. We ask that Thou wilt help all men everywhere to remember that no one nation can rise to power through the ruin of the neighboring nations, but that the prosperity of one helps the prosperity of all, and that the deterioration of the one means the deterioration of all, and in this time of world crisis, we fervently invoke the guidance of the pure and peaceable counsels of heavenly wisdom in behalf of the men who compose the chancelleries and the cabinets of all the governments. Abate all sinful pride, assuage all unholy malice, dispose all minds to moderation, so that men may see clearly the eternal and immutable issues of justice and humanity, and grant that through Thy help, peace may prevail above strife, and that the highest principles may be observed by all peoples. So may the boon of a lasting peace again dwell among all the peoples of the earth. Grant this, oh, Thou giver of every good and perfect gift, for Thy Great Name's sake. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed the Journal stands approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication containing resolutions of the city officials and citizens of the city of Kingston, which will be referred to the Committee on Cities.

Communications from the Governor and other State officers.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. Hinman — I offer the following resolution.

The Secretary — By Mr. Hinman: Resolved, That Ellen M. B. Hagan, assistant telephone operator, be assigned to the position of acting chief operator to take the place of Minnie C. Huller, who, on July 14, 1915, was granted leave of absence on account of illness, by the Convention, and that her pay dating from July 14, 1915, be the same as that heretofore paid the chief operator; and be it further Resolved, That Louise Patten be appointed as assistant telephone operator during the absence of Miss Huller at the same compensation heretofore paid to the assistant operator, and that her pay date from July 16, 1915.

The President — Referred to the Committee on Contingent Expenses.

Mr. Clinton — I offer the following resolution.

The Secretary — By Mr. Clinton: Resolved, That copies of proposed Constitutional Amendments, No. 15, introduced by Mr. Brackett, relating to the jurisdiction of the Supreme Court; printed No. 95, Int. No. 95, introduced by Mr. Westwood, relating to suits against the State; and print No. 414, Int. No. 402, introduced by Mr. Latson, relating to claims against the State, be referred to the Committee on Canals for information and opinion.

Mr. Clinton — These bills relate indirectly to matters affecting the canals. That is the reason I ask that copies be sent to that committee.

The President — Is there any objection?

Mr. Brackett — I am constrained to say that the bills, if they are all of the character of the first one on the list, hardly relate to canals. I am reminded of the gentleman up in Maine, where there was a pretty stringent prohibition law; he went to the drug store and sought to purchase a quart of whiskey, or a gallon of whiskey, bringing it within the statute that said it could be sold for mechanical purposes, on the ground that it was to be used for the purpose of moving a barn. That is about as near to mechanical purposes as these bills possibly relate to canals. They relate to the jurisdiction of the court, and nothing else. I do not think it makes any difference to the canals, or how they are operated, or their result, whether the claims that are made against the State, by reason of the construction of the canals, are brought before one

court or another. With this explanation, I will not make any objection, but I think it is a work of supererogation on the part of the Convention to refer it to that committee.

The President—All in favor of the reference desired will say Aye, contrary No. The reference is agreed to.

The President—Reports of standing committees.

Mr. Barnes—We have a report from the Committee on Legislative Powers and Limitations which is not ready. I assume we can make the report later, if there is no objection.

The President—Doubtless the report will be made out of order, unless some one objects.

Mr. Barnes—I should like also to ask unanimous consent to amend bill introduced by Mr. Dunmore, at his request. He does not seem to be here this morning. I would like to have it reprinted and restored upon its place in general orders, and at the same time the Committee on Legislative Powers and Limitations will file a memorandum in relation to the bill which that committee has adopted.

The President—Mr. Barnes moves to discharge the Committee of the Whole from further consideration of Bill No. 728, Int. No. 573, to amend as indicated by the paper handed up by him and recommit to the same committee.

Mr. Wickersham—I rise to an inquiry. Is it in order when a matter is in general orders of the Committee of the Whole to recall it in the Convention in this manner? If so, I have no objection. I simply rise to an inquiry.

Mr. Barnes—It requires unanimous consent.

Mr. Dunmore—Mr. President, I accept the amendment and I desire that it be amended in conformity with the request.

The President—All in favor of the motion to discharge, to amend and recommit the bill say Aye, contrary No. The motion is agreed to.

The President—The Chair will inquire of Mr. Barnes what disposition he wishes to be made of the statement that accompanies the paper.

Mr. Barnes—That is the memorandum in regard to the bill.

The President—What does the gentleman wish done with it?

Mr. Barnes—Printed as a document.

The President—It is moved that the memorandum by the Committee on Legislative Powers handed up to the Convention with Bill 728 be printed as a document.

Mr. Quigg—Mr. President, I am inclined to object to that.

The President—The Chair is of the opinion that this memorandum, if it were a report, would be provided for by the rules; but as the matter therein is not before the Committee on Legislative Powers this cannot be a report. Perhaps the safest way is

to pass upon it. It is moved that this paper from the Committee on Legislative Powers be printed as a document.

Mr. J. L. O'Brian — Mr. President, a question of information. I would like to ask whether that is a report of the Committee giving reasons for its report?

Mr. Barnes — It is.

Mr. O'Brian — Then I object to its being printed as a document, Mr. President. I think it should be printed in the Record, but I don't think it should be printed as a document. I think it would set a very bad precedent.

Mr. Parsons — Mr. President, under Rule 70, if it is a report of a Committee on the subject of Constitutional Revision, then it is printed as a document.

The President — This appears to be, if not technically, substantially a report of this committee.

Mr. Barnes — That is exactly the situation.

Mr. O'Brian — I did not so understand it.

The President — It is in spirit, if not by the terms of the rule, a report.

Mr. Barnes — The difficulty we labored under was that the bill was not before the committee. It had been before the Committee of the Whole, and inasmuch as Mr. Dunmore wanted it amended, we thought the whole matter could be closed up and placed in the Record in this way.

Mr. Parsons — As it is understood, then, that under the rule it will be printed as a document, Mr. Barnes will withdraw his amendment?

Mr. Barnes — Yes. That is what I understood was the custom.

The President — All in favor of the motion will say Aye, contrary No. The motion is agreed to and the paper will be printed. Are there any further reports of standing committees?

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

Mr. Wickersham — Mr. President, I move that we suspend the calling of the calendar of General Orders, in order that the committees may continue their work.

The President — It is moved that the calling of the calendar of General Orders be suspended. Those in favor of the motion will say Aye, contrary No. The motion is agreed to.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:20 a. m., the Convention adjourned, to meet at 10 a. m., Thursday, July 22, 1915.

THURSDAY, JULY 22, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. To Thee, our gracious God and Father, we bring our morning tribute of gratitude for Thy manifold mercies unto us. We bless Thee for the sleep which has refreshed our bodies, and for the privilege of entering upon this new day of opportunity. Grant that we may be mastered by the conviction that Thou hast created us for the best in character and in service, and may we consecrate ourselves earnestly to the pursuit of the best. Thou hast set us in a world where many things are dark, where many things are crooked, where there is much that is out of harmony with Thy perfect law. Forbid that we should be of those who give the strength of their bodies and the vigor of their minds and the enthusiasms of their hearts to things that are ignoble and petty and of little worth. But may we be of the noble company of those whose lives are dominated by Thy gracious spirit, who in all things interpret Thy mind and further the purposes that are well-pleasing to Thee. And through good report or through ill, may we be sustained by the thought that in every life which has in any way lifted humanity by the least bit nearer to its high ideals, there has been a fine scorn of consequences, a real willingness to sacrifice, a steadfast loyalty to deep and sure convictions, and a splendid trust in God. So may we serve our day and generation intelligently and courageously, and win at last the approval of our God and Father, and to Thee we will give all the praise. Through Jesus Christ, our Lord. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed the Journal stands approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. Wickersham — Mr. President, I offer the following resolution and move its adoption.

The Secretary — By Mr. Wickersham: Resolved, That after Monday, July 26th, the Convention sit from 10 a. m. to 1 p. m., from 2 p. m. to 5 p. m. and from 8:30 p. m. to 10:30 p. m. every day except Sunday.

Mr. Wickersham — Mr. President, I give notice I will call that resolution up to-morrow morning. I suppose it may give rise to debate, and therefore, under the rules, it will lie over until to-morrow.

Mr. Brackett — A point of personal comfort. I am more pleased than I can tell you, Mr. President, to see my friends, the lion and the lamb, lying down together — the gentleman from Columbia and the gentleman from New York; but I do hope that they will agree that we shall not have three sessions on Saturday. That really and truly is crowding the mourners a little too much. I am willing to be crowded a little. If we have one long session, beginning at about 8 o'clock on Saturday morning, we ought to be allowed to get off at 12 o'clock, that we may go to our homes.

The President — The resolution will go over, under the rules, until to-morrow morning.

The Secretary will continue the call of districts.

Mr. Quigg — I move that, in view of the fact that we are not going into general orders this week, when we adjourn on Friday, we adjourn until Monday night at 8:30. I will call the motion up to-morrow. I suppose it is in order now, but I will call it up to-morrow.

The President — Reports of standing committees.

Mr. O'Brian — From the Committee on Rules, I offer the following resolution, and I move its adoption.

The Secretary — By Mr. O'Brian: Resolved, That the resignation of Benjamin Kaiser as messenger be accepted, and that Frank Illig be employed this day in his stead as a messenger of this Convention at the compensation of \$3 per day.

The President — Mr. O'Brian asks for the immediate consideration of the resolution. Is there any objection? The Chair hears none, and the resolution is before the Convention. All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Mr. Barnes — The Committee on Legislative Powers and Limitations offers the following report.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. Barnes (No. 748, Int. No. 315), entitled "Proposed Constitutional Amendment to amend Article III of

the Constitution, relating to the powers of the Legislature," reports by Proposed Amendment entitled "Proposed Constitutional Amendment to amend Article III of the Constitution, relating to the powers of the Legislature."

Second reading — "To amend Article III of the Constitution, relating to the powers of the Legislature."

The President — Does the Convention desire to make any other disposition of the proposed amendment than sending it to general orders?

Mr. Low — I desire to call the attention of the Convention to the fact that one clause of that proposed amendment reads in this way: Amending the charter of any city of the State,— permitting the Legislature to amend the charter of any city of the State, except on the written petition of the mayor and the common council or similar authorities thereof, upon an affirmative vote of a majority of the members of each house of the Legislature representing said city in whole or in part. I think it must be quite clear to the Convention that that proposition is an alternative to what will probably come from the Committee on Cities, to which that special subject was referred as a standing committee.

The President — The Chair will say to Mr. Low that that is not the proposed amendment which has just been reported. The Secretary, if it is desired, will read the amendment as reported.

The Secretary — Article III of the Constitution is hereby amended by adding thereto a new section to be appropriately numbered to read as follows: The Legislature shall not pass any bill conferring upon political parties any advantage or preferment over other groups of voters in the recognition of nominations for public office made by them. Regulating the rules of procedure, the election of party committeemen and the making of nominations for public office by political parties or other groups of voters, except to provide for a method of placing such nominations on the official ballot, publicity of receipts and expenditures and penalties against fraud and corruption within such parties or groups.

Mr. Barnes — Mr. President, that report is offered for the consideration of the Convention. Not favorably.

The President — What disposition will the Convention make of the report? There being no motion made for other disposition, it will go to the Committee of the Whole.

Mr. Tanner — Mr. President, the Committee on Governor and Other State Officers makes the following report:

The President — The Secretary informs the Chair that there are two other reports by the Committee on Legislative Powers,

and Mr. Tanner's report will be laid aside until they are considered.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. Barnes (No. 748, Int. No. 315), entitled "Proposed Constitutional Amendment, to amend Article III of the Constitution, relating to the powers of the Legislature," reports by Proposed Amendment entitled "Proposed Constitutional Amendment, to amend Article III of the Constitution, relating to the powers of the Legislature," and said committee reports in favor of the passage of the same.

Mr. Low — Mr. President, may I ask to have that bill read?

The President — The Secretary will read the Proposed Amendment.

The Secretary — Article III of the Constitution is hereby amended by adding a new section, to be appropriately numbered, to read as follows:

Section —. The Legislature shall not pass any bill:

Amending the charter of any city of the State except upon the written petition of the mayor and the common council or similar authorities thereof, and upon the affirmative vote of a majority of the members of each house of the Legislature representing said city in whole or in part;

Amending the charter of any village of the State, except upon the written petition of the president and trustees thereof, and the affirmative vote of the member or members of each house of the Legislature representing said village.

Mr. Low — Mr. President, if that bill goes to the Committee of the Whole, with an understanding that it will not be called up until the report from the Committee on Cities is ready, I have no objection.

Mr. Barnes — I am very glad to have that understanding, Mr. President.

The Secretary — Second reading. Proposed Constitutional Amendment, to amend Article III of the Constitution, relating to the powers of the Legislature.

The President — Without any proposal for other disposition of the amendment, it is referred to the Committee of the Whole.

The Secretary — Mr. Barnes, from the Committee on Legislative Powers, to which was referred Proposed Amendment introduced by Mr. Barnes (No. 748, Int. No. 315), entitled: "Proposed Constitutional Amendment, to amend Article III of the Constitution, relating to the powers of the Legislature," reports by Proposed Amendment entitled: "Proposed Constitutional

Amendment, to amend Article III of the Constitution, relating to the powers of the Legislature." Said committee reports in favor of the passage of the same.

The Secretary — Second reading. To amend Article III of the Constitution, relating to the powers of the Legislature.

Mr. Quigg — Mr. President, I asked for the reading, to see what it is.

The President — The Secretary is beginning to read the Proposed Amendment.

The Secretary — Article III of the Constitution is hereby amended by adding a new section, to be appropriately numbered, to read as follows:

Sec.—. The Legislature shall not pass any bill: Granting hereafter to any class of individuals any privilege or immunity not granted equally to all members of the State;

Providing for or authorizing the expenditure of any public money to be paid to any person except for services rendered upon employment by the State or a political division thereof;

Establishing a minimum wage for service to be paid to any employee by a private employer.

Mr. Parsons — That involves one or more matters that are before the Committee on Industrial Relations, and I ask the chairman of the Committee on Legislative Powers whether the same disposition can be made of this as was made in connection with the matter on cities if he will agree that it be held until the Committee on Industrial Relations reports.

Mr. Barnes — Mr. President, it does not seem to me that this falls within the same category as the amendment in relation to cities, and I would not like to make that agreement; but I am in no hurry to move it, in the event that your committee will report shortly. I think it entirely proper that the discussion upon this subject should come at one time and I am in no desire to move it immediately.

Mr. Parsons — That will be satisfactory.

Mr. Wagner — Mr. President, did I understand Mr. Barnes to say that he had no desire to move this proposition?

Mr. Barnes — I said "immediately."

Mr. Wagner — We want to be around when it is being moved.

Mr. Barnes — I have no doubt of that, Mr. Wagner.

The President — Is there any motion to be made in regard to the disposition of this Proposed Amendment? The amendment is referred to the Committee of the Whole.

The Secretary — Mr. Tanner, from the Committee on Governor and Other State Officers, to which were referred several amendments proposing amendments to Section 1, Article IV, of the

Constitution, reports by Proposed Amendment entitled: "Proposed Constitutional Amendment: To amend Section 1, Article IV, of the Constitution," and reports in favor of the passage of the same.

Second reading. Proposed Constitutional Amendment: To amend Section 1, Article IV, of the Constitution.

Mr. Quigg — I ask for the reading of that, Mr. President.

The Secretary — Section 1. The executive power shall be vested in a Governor. The Governor elected in one thousand nine hundred and sixteen shall hold his office for two years; thereafter the Governor shall be elected for a term of four years and shall be ineligible to succeed himself. A Lieutenant-Governor shall be chosen at the same time and for the same term. The Governor shall receive for his services an annual salary of twenty thousand dollars and there shall be provided for his use a suitable and furnished executive residence.

Mr. Cullinan — I rise to a question of privilege. I have the honor of being a member of the Committee on Governor and Other State Officers, and I have tried to attend every meeting of the Committee except when I have been otherwise engaged in connection with Committee work of the Committee of which I have the honor of being chairman. The disclosed purpose of the committee, as it comes from the words of the chairman, at our several meetings, has been that the committee should report to this Convention a series — or a general bill to provide for the readjustment and rehabilitation of the State government from the Governor down, so that instead of having 149 or 150 departments or segments of departments, we should group all of the activities of State government under ten or twelve departments.

Now, we have been taking test votes, from time to time. We have been having hearings; we have been addressed by men prominent in national and State affairs; we have been holding joint conferences with the Committee on Finance, and, as I have understood, and as I think other members of the Committee on Governors have understood, all that the Committee on Governors has been doing has been to get all of the information so that we could come here to this house and report a symmetrical bill. Now, the report of this particular measure to-day is not in harmony with that general purpose. I may say that it is apparent from certain efforts being made before that committee, and when that committee meets with the Committee on Finance, that propositions are being urged there which are fatal to government by the people; that we are going to be asked to get efficiency at the expense of representative government.

Now, I am in favor of a Governor elected for a period of four years, and I have been recorded on that vote as being in favor of

that, but only tentatively. I am for a Governor for four years under certain conditions, providing he is not given powers which I believe are hostile to a republican form of government, and I desire to state that I am opposed to this single proposition coming up as it has, without being coupled with other amendments, which will make a symmetrical form of a bill.

Now, the matter of government is not haphazard, it is a matter involving great thought, and particularly a republican form of government. We have got to have checks, and we have got to have balances, and that was the product of the thought that was given to the Constitution of the United States, and it was never better expressed than it was expressed by John Adams in the formation of the Constitution of the United States, concerning which I will read just a few words —

Mr. J. L. O'Brian — Mr. President, I have no desire to be discourteous, but I rise to a point of order: The gentleman is not stating any matter falling within the category of personal privilege.

The President — The point of order is well taken. The gentleman has not stated any matter of personal privilege.

Mr. Cullinan — Well, Mr. President, that report is supposed to be on the records as having received my vote. It only received my vote conditionally, and I want to give my reasons for that vote.

The President — That is not a matter of personal privilege.

Mr. Brackett — Mr. President, for the purpose of giving my friend from Oswego an opportunity to read his stuff from John Adams, and anything else, I move to recommit the report to the Committee on Governor and Other State Officers. I have nothing to say on that motion, although I presume my friend from Oswego has.

Mr. Cullinan — Mr. President, I would like to continue my remarks on the new motion.

Well, now, here is what Mr. Adams says, and I desire to call attention of the Convention to it in connection with this motion to recommit, because I fear that these words of wisdom are not being duly considered. He says, "The great art of law-giving consists in balancing the poor against the rich in the Legislature and in constituting the legislative a perfect balance against the executive power, at the same time that no individual or party can become its rival. The essence of free government consists in an effectual control of rivalries. The executive and legislative powers are natural rivals, and if each is not an effectual control over the other, the weaker will ever be the lamb in the paws of the wolf. The nation which will not adopt an equilibrium of power must adopt a despotism. There is no other alternative.

Rivalries must be controlled or they will throw all things into confusion; and there is nothing but despotism or a balance of power which can control them. Even in the simple monarchies the nobility and the judicatures constitute a balance, though a very imperfect one, against the royalties."

Now, here is the unwisdom of acting unfavorably upon this proposition. The Committee on Finance seems to be favoring a proposition putting into the hands of the Governor a power which he nevermore possessed, to take away from the Legislature, the tax-imposing body, the power to say where that money shall be spent.

Mr. Stimson — Is the gentleman a member of the Committee on Finance?

Mr. Cullinan — No, but he has been called to sit —

Mr. Stimson — Has he sat in any meeting when the Committee has taken any executive action?

Mr. Cullinan — No.

Mr. Stimson — Has he any knowledge of such executive action?

Mr. Cullinan — What I read in the public prints, and what I have heard the chairman of the Committee on Finance say would be an excellent thing for the government of the State of New York.

Mr. Stimson — Does the gentleman represent the entire Committee on Finance?

Mr. Cullinan — No, he does not.

The President — We have not any time — perhaps we would better proceed.

Mr. Cullinan — I would say, Mr. President and Gentlemen, when we are giving the Governor of this State this great power of a four years term and do not check him, we are putting into his hands something that may be used to the disaster of the people of this State, and I desire to put myself on record as being opposed to this proposition, standing, as it does, alone, and coming into this House under these circumstances.

The President — The question is on the motion to recommit.

Mr. Brackett — I withdraw the motion.

Mr. Baldwin — As a member of the Committee on Governor and Other State Officers, I beg to file a brief, or a minority report, and I ask that the Clerk read it at this time.

The President — Mr. Baldwin offers a minority report from the Committee on Governor and Other State Officers. The Secretary will read the minority report.

The Secretary — We are unable to agree with the majority of the committee in recommending the amen. Went to Section 1,

Article IV, extending the term of the Governor to four years and making him ineligible to succeed himself. The chief function of the Governor is the administration of the business of the State. If he does it well, he should be re-elected. If he does it badly, two years is long enough. The people demand and should have a close relation with their chief executive. If you take away the frequent election, you must grant the antidote for the long term, viz., the recall. We cannot subscribe to this experiment and accordingly register our dissent.

(Signed) ARTHUR J. BALDWIN.

The President — Is there any motion to be made in regard to the disposition of this report?

Mr. Tanner — May I ask the gentleman if the minority consists of one, or how many?

The President — There is no matter now before the Convention except the question whether any member desires to make a motion for other disposition of this report than its reference to the Committee of the Whole.

Mr. Brackett — In the case of a dissenting report, does it not follow of necessity, that if a motion is made, such dissenting report follows the prevailing report and goes to general orders?

The President — That certainly is the case. The only question before the Convention is whether any member desires to make any other motion as to the disposition of the report. There being no proposal for any other disposition of the report, the Proposed Amendment reported is referred to the Committee of the Whole.

Mr. Brackett — May I ask the learned chairman of the Committee on Governor and Other State Officers if, when the proper time comes, and at his own convenience, he will have a special day assigned for the consideration of this; that is, either a special order or that it will be postponed to a special day, because it is a matter of great interest to some of us and we want to be sure to be on hand.

Mr. Tanner — Mr. President, I am perfectly willing to make any arrangement consistent with the balance of the calendar, when a full opportunity for debate will be had, and I will be very glad to confer with the gentleman as to that.

The President — Reports of standing committees.

Mr. Cullinan — I offer the following report.

The Secretary — Mr. Cullinan, from the Committee on Suffrage, to which was referred Proposed Amendment, introduced by

Mr. C. H. Young, Nos. 706, 717, Int. No. 686, entitled "Proposed Constitutional Amendment, to amend Article II of the Constitution, relative to the qualification of voters," reports in favor of the passage of the same without amendment.

The President — What disposition does the Convention desire to make of this report? There being no proposal for any other disposition, the Proposed Amendment is referred to the Committee of the Whole.

The Secretary — Mr. Cullinan, from the Committee on Suffrage, to which were referred several Proposed Constitutional Amendments and a resolution making provision with respect to amendments coincidently submitted by a Convention and the Legislature; and a number of hearings having been had on the subject-matter embraced in said Proposed Constitutional Amendments and resolution, the said committee unanimously reports the following Proposed Constitutional Amendment and recommends its adoption.

Mr. Quigg — I ask that the Proposed Amendment be read.

The Secretary —

PROPOSED CONSTITUTIONAL AMENDMENT

To amend Section 3 of Article XIV of the Constitution, by making provision with respect to amendments coincidently submitted by a Convention and the Legislature

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Section 3 of Article XIV of the Constitution is hereby re-numbered section 4 and amended to read as follows:

§ [3]4. Any amendment proposed by a constitutional convention relating to the same subject as an amendment proposed by the legislature, coincidently submitted to the people for approval [at the general election held in the year one thousand eight hundred and ninety-four, or at any subsequent election,] shall, if approved, be deemed to supersede the amendment so proposed by the legislature[.]; *provided, however, that if at the general election held in the year one thousand nine hundred and fifteen, a majority of the electors voting thereon, shall approve and ratify the amendment to Section one of Article two of the Constitution now in force, heretofore proposed by the legislature, Section one of Article two of this Constitution shall be deemed thereby amended so as to embody therein the new matter contained in said proposed amendment so approved.*

Mr. Cullinan — I would like to ask unanimous consent to make an explanation in regard to that bill. One week ago this morning the Committee on Suffrage made a report of substantially the same character. Previously, a resolution of Mr. Parsons, two bills of Delegate Franchot, and Section 4 of a bill introduced by Delegate Marshall, referred to the Committee on Future Amendments, were sent to the Committee on Suffrage for its information and opinion, and an opportunity was given to all persons interested in the resolution and in the several bills to meet and agree upon phraseology which would be entirely satisfactory to everybody concerned. In the preparation of the report, the bill of Mr. Marshall was referred to, and after the report was prepared and filed, the Clerk's desk called attention to the fact that the Committee on Suffrage had no business to report on a bill in the possession of another committee. To obviate that objection, and to carry out the expressed will and intention of the committee, the committee has reported a bill of its own which is substantially what occurred last week in the other report. Delegate Hinman, chairman of the Committee on Future Amendments, is not present this morning, and he may have something to say in reference to this report, and I would ask that the matter remain on the Clerk's desk as it is, until Mr. Hinman, chairman of the Committee on Future Amendments, is present and able to take such steps in reference thereto as he may deem wise and proper.

The President — The Proposed Amendment, having been read the first time, will lie upon the President's table until called up.

Mr. M. Saxe — I offer the following from the Committee on Taxation, and I make the usual motion, and that it be ordered reprinted and referred to the Committee of the Whole.

The Secretary — Mr. M. Saxe, from the Committee on Taxation, to which was referred Proposed Amendment introduced by the Committee on Taxation, No. 696, Introductory No. 679, entitled "To amend the Constitution, by inserting a new article, in relation to taxation," reported in favor of the passage of the same with the following amendments:

On page 1, line 5, after the word "away" add *No property shall be exempt from taxation except as expressly provided by law. Laws granting exemptions from taxation, whether heretofore or hereafter enacted, shall be subject to modification or repeal. Hereafter no exemption shall be granted except by general laws and upon the affirmative vote of two-thirds of all the members elected to each house.*

On page 1, strike out from line 6 to 11, inclusive, and insert the following: *Section 2. Taxes shall be imposed by general*

laws and for public purposes only. The legislature shall prescribe how taxable subjects shall be assessed and provide for officers to execute laws relating to the assessment and collection of taxes, any provision of any other article of this constitution to the contrary notwithstanding. The legislature shall provide for the supervision, review and equalization of assessments.

On page 2, strike out lines 1, 2 and 3 and insert the following: Section 3. For the assessment of real property, heretofore locally assessed, the legislature shall establish tax districts, none of which, unless it be a city, shall embrace more than one county. The assessors therein shall be elected by the electors of such district or appointed by such authorities thereof as shall be designated by law. The legislature may provide that the assessment-roll of each larger district shall serve for all the lesser tax districts within its boundaries. The legislature may, however, provide for the assessment by state authorities of all the property of designated classes of public service corporations.

Section 4. The legislature may empower state authorities to review the assessment of the real property of a municipal corporation not within the limits of such corporation and to order a reassessment thereof subject to judicial review.

Mr. M. Saxe—For the information of the Convention, I desire to state that this report was adopted by a vote of fifteen to one, one member of the committee being absent.

The President—Unless there be other disposition moved, the Proposed Amendment as reported will go to the Committee of the Whole. So ordered.

Mr. Barnes—I offer a memorandum which was neglected to be handed up—a memorandum to go with the report of the Committee on Legislative Powers which has been presented.

The President—The Secretary will read the memorandum.

The Secretary—Memorandum from the Committee on Legislative Powers and Limitations on bill introduced by Mr. Barnes, Introductory No. 315, Print No. 748. This proposal is based upon the principle that the granting of a privilege or immunity to any class of individuals in the State is properly a constitutional and not a legislative function. Privilege in its essence is contrary to the spirit of American institutions, but the right of the voters to grant privilege is inherent in their sovereign power. The committee, therefore, holds that in the event that certain persons desire that the State shall grant some privilege, as has been done in the case of the workmen's compensation amendment to the Constitution, their appeal should be made directly to the voters through Constitutional Amendment.

Mr. S. K. Phillips — The Committee on Contingent Expenses makes the following report, and I move the adoption of the report.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to the appointment of telephone operators, introduced by Mr. Hinman July 21, 1915, reports in favor of the adoption of said resolution.

The President — Is the Convention ready to act upon the resolution? All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

Reports of standing committees are still in order.

Reports of special committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

Mr. Wickersham — I move the suspension of the call of the general orders calendar.

The President — It is moved that the call of the calendar of the day be dispensed with. All in favor will say Aye, contrary No. The motion is agreed to.

Mr. Wiggins — I was absent from the Convention Hall when the call of districts was made for resolutions, and I ask unanimous consent to offer the following resolution.

The President — There being no objection, the resolution will be received. The Secretary will report the resolution.

The Secretary — By Mr. Wiggins: Resolved, That there be printed as a document of this Convention the speeches made by William D. Guthrie, D-Cady Herrick and George W. Wickersham, made before the Suffrage Committee on the subject of nominations by convention system.

Mr. Wiggins — Mr. President, I ask unanimous consent for the adoption of the resolution.

Mr. Westwood — I object.

The President — Objection being made, the resolution goes to the Committee on Contingent Expenses.

Mr. Westwood — May I inquire of the chairman of the Committee on the Judiciary whether it is the present intention that the body go into the Committee of the Whole to-morrow?

Mr. Wickersham — Mr. President, I have not yet heard from one or two chairmen of committees who made reports this morning, and, therefore, I am unable to answer that question at the moment.

The President — The Secretary will make the announcements.

Mr. Barnes — I rise to a point of — I don't know exactly

whether it is a question of privilege or not, but I have been requested by one or two members of the Committee on Legislative Powers to record their opposition to Bill No. 748, reported by that Committee this morning, and for the purposes of the Record they desire to have the vote of the Committee recorded. The vote in favor of the bill relating to the power of the Legislature to grant privilege was ten to six, and the vote in regard to the bill on cities was eleven to two; Mr. A. E. Smith and Mr. Ahearn voting in the negative on the first proposition, and in the affirmative on the other. It is by their request that I wish to write this into the Record.

Mr. A. E. Smith — The request that I made of the Chairman was not so much the straightening out of the Record, as to the vote of the Committee. That, I believe, is a matter of record, but what I had more particular reference to was the memorandum that was just handed up indorsing the proposition brought out relative to preventing the Legislature from enacting bills which grant privilege to any particular class as against the rest of the State. What I desire to have the Record show is that Mr. Ahearn, Mr. Foley and myself do not concur in that opinion by the Committee.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:50 a. m., the Convention adjourned, to meet at 10 a. m. Friday, July 23, 1915.

FRIDAY, JULY 23, 1915

The President — The Convention will please be in order. Prayer will be offered by Rabbi S. H. Goldenson.

Rabbi Goldenson — Oh, Thou, Who presidest over the destinies of peoples, even as Thou watchest over the lives of men, we pray unto Thee to inform our deliberations this day with the spirit of wisdom and understanding, the spirit of counsel and of light, the spirit of knowledge and the fear of Thee, to the end that our labors may redound to the good of our fellow-men and to the glory of Thy great name. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Presentations of memorials and petitions.

The Chair lays before the Convention a communication from citizens of the city of Cortland, which will be referred to the Committee on Cities; also from the city of Oneonta, which is referred to the Committee on Cities; also from citizens of Elmira, same reference; also from the city of Corning, same reference; also from the city of Hornell, same reference.

Communications from the Governor and other State officers.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Quigg — I move when the Convention adjourns to-day, it adjourn until Monday night, at 8:30 p. m.

The President — Mr. Quigg moves that when the Convention adjourns to-day, it adjourn until Monday night. Are you ready for the question upon the resolution? All in favor of the resolution will say Aye, contrary No. The Noes appear to have it, and the resolution is lost.

Mr. Quigg — Mr. President, I ask for a division on that.

The President — The division is called for. All in favor of the resolution will rise and remain standing until counted.

Mr. Dunmore — Mr. President, I do not think that the delegates generally understand the proposition which is being passed upon.

The President — The question is upon the motion of Mr. Quigg, that when the Convention adjourns to-day, it adjourn until Monday night at 8:30 p. m. Any gentleman who is standing up will be counted. The gentlemen will be seated. All who are opposed to the resolution will rise and remain standing until counted. The resolution is evidently lost, and the Clerk will proceed with the call of the roll of districts.

Mr. Wickersham — Mr. President, I offer the following resolution.

The Secretary — By Mr. Wickersham: Resolved, That the chairmen of the respective committees report to the Convention Monday evening, July 26th, concerning the state of business of their committees, and the time when they expect to be able to report to the Convention upon the principal matters under consideration by them.

The President — Is there objection to present consideration of the resolution?

Mr. Wickersham — I would like to state in that connection, that I do not propose to call up the resolution offered yesterday as to the sessions of the Convention after the 26th, until Monday evening, so that we may have the benefit of the information called for in the resolution just submitted, before acting on that motion.

The President — There is no objection to the consideration of the resolution. It is before the Convention.

The President — All in favor of the resolution will say Aye, contrary No. The resolution is agreed to.

The Clerk will proceed with the call of districts.

Mr. Bunce — Mr. President, I do not object to work, but I say that it is a farce to make me stay here Saturdays when there is no quorum, when I could go home and look over my mail and attend to my personal business. I move that when the Convention adjourns, it adjourn until Monday evening.

The President — The resolution of the gentleman from Herkimer will be entered upon the records. The motion cannot be entertained, because the same motion has just been decided adversely.

The President — Reports of standing committees.

Mr. Quigg — I move that when the Convention adjourns, it adjourn to meet at 8:15 on Monday night. Now, Mr. President, I counted the votes. You said "evidently lost." As I counted it, it was 26 to 26. It was lost because it was 26 to 26, but it is simply absurd to keep us here when we know we are not going into General Orders to-day, when those of us who want to stay here if there is to be a meeting remain because we do not know what will be suggested, moved or advanced unless we are here; and yet we know that there is no quorum in this room now. There are 64 members here now — not 85 but 64 — and it is not right that we should be compelled to meet here to-morrow, knowing that there is no business going to be done. It is not necessary to any good purpose, and it is unfair to us. I move that when we adjourn, we adjourn to meet 8:15 o'clock Monday night.

Mr. Bunce — Mr. President, I would like to second that motion. I never yet was accused of trying to shirk work, but I do not believe it is treating Mr. Quigg and myself, and a few other members of this Convention who are conscientious, right, to make us stay over here to attend on Saturday when there has never been a quorum on Saturday. I say that we ought to have the opportunity to go home and look over our correspondence Friday night. Of course, if there is work to be done I am here to do it, and if it is necessary we will take up the subjects that are of a religious nature and discuss them Sundays and I will not go home at all. But I say it is unjust. There is not a member from my district here this morning except myself. It is unjust to keep 18 or 20 of us here who conscientiously perform our duty and let the rest of the 168 go.

Mr. Wickersham — The purpose of fixing meetings of the Convention on Saturday, on the resolution which was adopted a fortnight ago, was, among other things, that we might have a session on Saturday morning at which the results of the work of the committees on Friday might be presented, and thus have it go upon the general orders calendar.

Mr. Quigg — How can you put them on General Orders, if there is not a quorum, and I make the point?

Mr. Wickersham — You cannot, of course.

Mr. Quigg — I can make it right here now and compel the adjournment to-day, because there is not a quorum here; and if you have twenty members here, as you had last week on Saturday, how are you going to put anything on the calendar?

You stated,— if you will allow me to continue,— you stated the other day that the object of the Saturday session was to have committee presentations. On last Saturday when there was not a quorum here, and Dr. Schurman made his extraordinary ruling that it was within his discretion to see a quorum or not to see it,—

Mr. Wickersham — I only yielded for a question; I did not yield for an address.

Mr. Quigg — I asked you to allow me to interrupt you, that I might make an observation.

Mr. Wickersham — If you have simply an observation to make, very well, but I did not yield for an address.

The President — The gentleman from New York, Mr. Wickersham, has the floor.

Mr. Wickersham — I want to say right here that Dr. Schurman's ruling last week was in exact conformity with the precedents of the House of Representatives of the United States.

Mr. Quigg — Not while I was there.

Mr. Wickersham — I don't know whether you were there or not, but if you will only look in Hind's Precedents, you will find it.

Mr. Schurman — It is there.

Mr. Wickersham — What I was going to say was that it was the intention of the Convention that the work of the committees on Friday might be brought into the Convention on Saturdays. Now, if a majority of the members of this Convention fail to be sufficiently impressed with the obligation resting upon them to come here and be here in their seats on the days when the Convention agrees it shall transact its business, the responsibility is theirs; but the officers of this Convention will have discharged their responsibilities when they lay before the Convention the necessities of proceeding on the regular days with the regular business and furnishing, in accordance with the vote of a majority, the facilities for transacting that business. It is to be regretted, Mr. President, that we have apparently not a majority of the members of the Convention present to-day; but it is also to be observed that during the last week the committees, the several committees of this body, have been at work day and night, and to my knowledge several of them have finished the work of deliberation and discussion and agreement, and have left in the hands of subcommittees the duty of

drafting and formulating the results of their deliberations, and I presume that under those circumstances members have gone home feeling that they were not charged with the especial duty of being present to-day and to-morrow. I think it is to be regretted. I think every member of this Convention ought to be in his place, unless by some circumstances over which he has no control, he is forced to be elsewhere, but I do not think that we ought to depart from the rules which we have solemnly adopted after full discussion, because a majority of the members have not felt that sense of duty which those of us here have yielded to.

Mr. Schurman — I understood the President to say there was no motion before the House to act upon at this time?

The President — There is now a motion by Mr. Quigg to adjourn until 8:15; that when the Convention adjourns to-day it adjourn until 8:15 on Monday evening. The Chair is in doubt as to whether the terms of Mr. Quigg's former motion permits this motion to be made. The question as to whether or not there is anything before the Convention depends upon the terms of Mr. Quigg's former motion. Mr. Quigg moved that when the Convention adjourned it adjourn until Monday evening. Whether the hour of 8:30, whether that hour was specified within Mr. Quigg's former motion to adjourn, or whether it was to adjourn until Monday evening, will be ascertained.

The stenographer will read the former motion.

Mr. Quigg — Mr. President, I certainly intended it to be the regular session at 8:30 Monday evening in my original motion.

The President — If the motion was to adjourn until Monday evening, Mr. Quigg's present motion is not in order. If it was to adjourn to 8:30, his motion is in order.

Mr. Quigg — I wish to assure the Chair —

The President — The gentleman is out of order. It is not within his power to comment in this manner on the rulings of the Chair. It is the duty of the Chair to enforce the rules of parliamentary law.

Mr. Bunce — Mr. President, I move when the Convention adjourns to-day it adjourn until Monday evening at 8:30 o'clock.

The President — The motion is not in order.

Mr. Bunce — Mr. President, I move that when the Convention adjourns to-day it adjourn until Monday evening.

Mr. Wickersham — There is a motion before the House, and the gentleman is not in order.

The President — Point of order is well taken.

The Chair has now the stenographer's report of Mr. Quigg's former motion, which was put and lost; and that was that the Convention adjourn until Monday night at half past eight.

Mr. Quigg's motion that, when the Convention adjourns, it adjourn until Monday evening at 8:15 is in order. Is the Convention ready for the question upon the motion? All in favor of the motion will say Aye, contrary No. The Noes evidently have it.

Mr. Quigg — I ask for a division, Mr. President.

The President — All the gentlemen in favor of the motion will rise and remain standing until counted.

Mr. Bunce — I rise to a point of order; no quorum.

The President — What is the point of order?

Mr. Bunce — No quorum.

The President — That question cannot be raised during a division. The Clerk will count the number of members standing. The gentlemen will be seated. Those opposed to the motion will rise and remain standing until counted. The motion to adjourn is lost.

Mr. Schurman — I should like to report a Proposed Amendment from the Committee on Education.

Mr. Quigg — Mr. President, I make the point of order that no quorum is present to do business.

The President — The gentleman from Columbia raises, or suggests, the absence of a quorum. The Secretary will call the roll.

Mr. Wickersham — Mr. President, I move that the bar of the Convention be closed.

The President — That motion will not be in order until the roll has been called.

Upon the call of the roll the following delegates responded:

Messrs. Aiken, Allen, F. C., Angell, Austin, Baldwin, Banister, Barnes, Barrett, Bayes, Bell, Berri, Betts, Blauvelt, Bunce, Buxbaum, Clinton, Cobb, Cullinan, Curran, Dahm, Deyo, Dick, Donovan, Dow, Dunmore, Fobes, Franchot, Gladding, Green, Haffen, Hale, Hinman, Landreth, Latson, Law, Leggett, Linde, Lindsay, Low, Marshall, Martin, L. M., Mealy, Meigs, Nicoll, C., Nixon, Nye, O'Brian, J. L., Owen, Parmenter, Parsons, Phillips, S. K., Potter, Quigg, Rhees, Rodenbeck, Root, Ryder, Sanders, Schurman, Sears, Shipman, Slevin, Smith, E. N., Standart, Steinbrink, Stimson, Tanner, Tierney, Tuck, Unger, Van Ness, Wafer, Waterman, Weed, Westwood, White, C. J., Wickersham, Young, C. H., Young, F. L.

Mr. Wickersham — Mr. President, I rise for information, I did not hear the result of the last call.

The President — The result is that there is not a quorum present.

Mr. Wickersham — Mr. President, I move that the bar of the Convention be closed, and that the House be called.

The President — It is moved that the bar of the Convention be closed, and for a call of the House. All in favor of the motion will say Aye, contrary No. The motion is agreed to. The Sergeant-at-Arms will close the doors of the Convention chamber and permit no member to depart. The Sergeant-at-Arms will send to members of the Convention who have not answered to their names, and request their presence at the Convention.

Mr. Wickersham — I move we adjourn.

The President — Will the gentleman withhold his motion long enough for the Secretary to make announcements?

The question is upon the motion to adjourn.

Mr. Deyo — Mr. President, I rise to a point of order. I believe the motion should be to suspend the further call of the House. I make that motion.

The President — That could not be made pending the motion to adjourn. The effect of suspending the call would be that it would still be impracticable, impossible, for the House to do any business, except to adjourn, unless a quorum makes its appearance.

Mr. Deyo — I think, with all due deference to the ruling of the President, that the proper procedure is to suspend the call of the House and then to move to adjourn. I think the point of order is that a motion to adjourn is not in order when a call of the House is pending.

Mr. Wickersham — In that case, Mr. President, I will move to suspend the call of the House and then to adjourn.

The President — It is moved that the call of the House be suspended. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Wickersham moves that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 11:30 a. m., the Convention adjourned, to meet at 10 a. m., Saturday, July 24, 1915.

SATURDAY, JULY 24, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Ernest M. Grahn.

The Rev. Mr. Grahn — Let us pray. Almighty and Everlasting God, our Gracious Father in Heaven, we praise and thank Thee that Thou hast created us and all that exists, that Thou hast given and still preservest to us our bodies and souls, with all our limbs and senses, our reason and all the faculties of our mind, together with our raiment, food, homes and families and all our property. We thank Thee that of Thee is all rule and authority of the nations of the earth, and that all power is in Thy hand; that Thou hast ordained the powers that be for the punishment of evil-doers and for the praise of them that do well, and we pray Thee, Heavenly Father, that Thou wouldst regard with Thy gracious favor these Thy servants, the members of this Constitutional Convention, individually and collectively. Do Thou grant to them wisdom and understanding that in the discharge of their duties the people of this commonwealth may be guarded and guided in righteousness and unity and prosperity. Do Thou bless the President of our nation and all who are in authority over us, as also all the nations and rulers of the earth, and bring about a reign of righteousness and peace in these times of strife and difficulty and suffering. All these blessings we ask of Thee without any merit or worthiness in us, through the merit and intercession of Thy dear Son, Jesus Christ, our Lord. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? No amendments being proposed, the Journal is approved as printed.

Presentation of memorials and petitions.

Communications from the Governor and other State officers.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. Wickersham — Mr. President, I move to discharge the Committee of the Whole from consideration of Proposed Constitutional Amendment No. 640, to amend and recommit. I ask unanimous consent for the consideration of that motion. I may say that I have the consent of the chairman of the committee having the bill originally in hand, to this motion.

The President — Is there objection? The Chair hears none and it is so ordered.

Mr. M. Saxe — I offer the following resolution and move its adoption.

The Secretary — By Mr. M. Saxe: Whereas, There have been exceedingly large demands for copies of Proposed Constitutional Amendment No. 756, by the Committee on Taxation; and Whereas, The supply as printed under the rules of the Convention is limited; Resolved, That there be printed for the use of the Convention 500 extra copies of Proposed Constitutional Amendment No. 756, Int. No. 679, which was referred to the Committee of the Whole, on July 22, 1915.

The President — Committee on Printing.

Mr. Quigg — Mr. President, Mr. Bell, of New York, has requested me to ask that he may be excused from attendance to-day on account of important business, and I make that request.

The President — Is there objection to the excuse asked? Without objection, the excuse is granted.

Mr. Quigg — Mr. President, I desire to give notice that immediately after action upon Mr. Wickersham's motion with respect to sessions, which he said he would call up on Monday night, if I understood him, I shall move that delegates who are absent from regular sessions without excuse and without subsequent explanation be fined the sum of \$10, their daily pay.

Mr. Hale — On behalf of Mr. Waterman and Mr. Wadsworth, I ask that they be excused from attendance to-day, because they are visiting the charitable institutions, in pursuance of their committee duties.

The President — Is there any objection to granting the excuse requested? Without objection, they are excused.

The President — Reports of standing committees.

Mr. Stimson — On behalf of the Committee on State Finances, I present the report of that committee, as to Article VII of the Constitution, together with the Proposed Amendment covering that. I am also asked on behalf of Senator Wagner to present a report by him, in which he dissents from one of the conclusions of the committee.

The President — Is there any special disposition to be moved? The Secretary will read the amendment.

The Secretary — By the Committee on State Finances: Proposed Constitutional Amendment.

Second reading — To amend Sections 2, 4, 5, 11 and 12 of Article VII of the Constitution, in relation to debts contracted by the State.

The President — Is there any disposition to be moved by the Convention?

Mr. Quigg — I ask that it lay over in its present position until a quorum is present, so that any delegate who wants to may make his motion on that.

The President — Will Mr. Quigg include in that, that it be printed?

Mr. Quigg — Yes, sir; I move that it be printed and that it lay over.

The President — It is moved that it be printed and lay over, in its present condition.

Mr. Quigg — Yes, I ask that that disposition be made of it.

The President — That disposition will be made, without objection.

A report is on the President's table, made by Mr. Schurman, Chairman of the Committee on Education, yesterday. The Chair suggests for the convenience of the members that the same disposition be made of that; that it be printed and lie over until Monday. Without objection, that order will be made.

The President — Are there any other reports of standing committees?

The bill reported by Mr. Schurman will have its formal reading.

The Secretary — By the Committee on Education: Proposed Constitutional Amendment.

Second reading — To amend Article IX of the Constitution, in relation to city boards of education.

The President — Without objection, the report will be printed, and lie over until the next session of the Convention.

Any further reports of standing committees?

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

Mr. Wickersham — Mr. President, I move that we suspend the call of general orders to-day.

The President — It is moved that the call of general orders be suspended. All in favor of the motion say Aye, contrary No. The motion is agreed to.

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — Before putting that motion, the Chair wishes to call the attention of the chairmen of committees to the resolution offered by Mr. Wickersham and adopted by the Convention yesterday or the day before, requiring the chairmen of all committees to report Monday evening upon the condition of business in their committees, as a preliminary to acting upon the resolution which now lies upon the table, for establishing an order of meetings for the consideration of general orders. A similar course of business was followed in the last Convention, and the reports of chairmen of committees were made orally. The Chair

will direct the Secretary Monday evening to call the roll of committees in the order in which they are enumerated in Rule 15, and if the chairmen of the committees would be prepared to make an oral statement to the Convention at that time, of the condition of business before the committees, and the time when their committees expect to be able to report upon the substance of the matters before them, the Chair considers the most convenient method will have been followed.

Mr. Wickersham moves that the Convention do now adjourn.

Mr. Bunce — I want to call the attention of the President and of the members of the Convention to the fact that yesterday's Journal is not on our desks and the Journal has been approved without our having an opportunity to see it. Because I made a statement here yesterday, I would like to reserve the right to move to amend the Journal at the next session of the Convention, Monday evening, if it does not contain what I said.

The President — No special reservation or motion is necessary. The Journal which was approved this morning is not the Journal of yesterday's proceedings. It was the Journal of the day before yesterday. The Journal of yesterday's proceedings will come up for approval or change Monday evening, in accordance with the standing resolution of the Convention. All in favor of the motion that the Convention do now adjourn say Aye, contrary No. The motion is agreed to, and the Convention stands adjourned until 8:30 o'clock Monday evening.

Whereupon, at 10:15 a. m., the Convention adjourned, to meet at 8:30 p. m., Monday, July 26, 1915.

MONDAY, JULY 26, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Frederick Andrew Bower.

The Rev. Mr. Frederick Andrew Bower — Our Father, in Heaven, we thank Thee that the capacity to meet every need of every man resides in Thee and that it is possible for any and all of us to come to Thee and find in Thee the source, the strength and the supply for every desire that is right and in accordance with truth and virtue; and we pray Thee, our Father, that divine wisdom may be given to us to-night in these deliberations and in all that we do may we not forget Thee, but may we seek to glorify Thy great and Holy Name, and to Thee we would ascribe all the praise, both now and forever more. Amen.

The President — Are there any amendments to the Journal as printed?

Are there any amendments to be made to the Journal? There being no amendments proposed, the Journal is approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from the Common Council of the city of Johnstown, which will be referred to the Committee on Cities; also from the Common Council of the city of Olean, same reference; also from the Common Council of the city of Albany, same reference; also from representatives of the city government and citizens of Fulton, same reference; also from a conference of citizens of the city of Gloversville, same reference; also from a meeting held under the auspices of the city officials and civic organizations of the city of Oneida, same reference.

Communications from Governor and other State officers.

Reports of Standing Committees. The Secretary will call the roll of committees in the order laid down in Rule 15.

The Secretary — Committee on Bill of Rights.

Mr. Marshall — The Committee expect to have a final and full report as to all of the matters which have been referred to it not later than the first of August. It is quite possible that a partial report may be rendered during the present week.

The Secretary — The Committee on Legislative Organization.

Mr. Brackett — It is expected that early next week a completed report may be submitted, and possibly earlier.

The Secretary — Committee on Legislative Powers.

Mr. Barnes — Our committee has finished its work with the exception of the general amendments to Article III, which have been introduced and are on the desks of the members. We did not think that we would report this completed article until such time as all the committees are ready to go into the completion of the different articles of the Constitution, but we can report it on Thursday, if it is necessary to have that done.

The Secretary — Committee on Suffrage.

Mr. Cullinan — The Committee on Suffrage has completed its business and transmitted its report to the Convention.

The Secretary — Committee on Governor and Other State Officers.

Mr. Tanner — The Committee on Governor and Other State Officers has concluded, of course, its public hearings, and its executive sessions are being continued, and if we have the balance of the week free from General Orders, we probably can get in our report by Monday, but not before.

The Secretary — Committee on the Judiciary.

Mr. Wickersham — I hope to be able to submit the report of the Judiciary Committee early next week.

The Secretary — Committee on State Finances.

Mr. Stimson — The Committee on State Finances submitted its general report on Article VII of the Constitution on Saturday last to the Convention. It is now at work upon its report on the other of the two principal matters submitted to it, the question of the budget. It hopes to finish that by the end of this week or the beginning of next week. That substantially completes its work.

The Secretary — The Committee on Cities.

Mr. Low — The Committee on Cities hopes to be able to submit its report as to all matters referred to it by the end of this week.

The Secretary — The Committee on Canals.

Mr. Clinton — Mr. President, the Committee on Canals has practically completed its work; it is a mere matter of phraseology of its final report, which has been prepared. If we do not go into General Orders until Friday I have no doubt we will be able to report and complete our work on Thursday.

Mr. President, if it is in order, I hand up a report, reporting a bill favorably with an amendment — a Proposed Amendment.

The Secretary — Mr. Clinton, from the Committee on Canals, to which was referred Proposed Amendment which was introduced by Mr. Austin, No. 368, introductory number 363, to amend Section 5 of Article V of the Constitution by abolishing the commissioners of the canal fund and providing that the duties of said commissioners shall devolve upon the Comptroller — reported in favor of the passage of the same with the following amendment, page 2, line 3, after the word "Comptroller" insert in italics "subject to the power of the Comptroller to alter and regulate the same."

The President — Is there any motion to be made regarding the disposition of the report? If there is no other disposition moved the report will be referred to the Committee of the Whole.

The Secretary — Committee on Public Utilities.

Mr. Hale — Mr. President, the work of the committee is substantially done. There is only one other amendment to receive any further consideration by the committee and the committee hopes to have its report ready by the middle of the week.

The Secretary — The Committee on County, Town and Village Government.

Mr. J. L. O'Brian — Mr. President, the work of the committee is now in the hands of appropriate subcommittees and it is the opinion of the members of the committee that it should be able to make a final report on all matters submitted to it not later than the middle of next week.

The Secretary — The Committee on County, Town and Village Officers.

Mr. Mereness — Mr. President, all matters before the committee have been finally disposed of with the exception of two. I think final action will be taken on Wednesday of this week. On another matter we have been awaiting the action of another committee that had to deal with the same matter involved in this amendment, and whether it has finally disposed of that, I am unable to say, but we will be able to report as soon as we hear from the other committee. With that exception the report of the committee is nearly ready.

The Secretary — The Committee on Prisons, and the Prevention and Punishment of Crime.

Mr. Clearwater — Mr. President, the committee has substantially completed its work, with the exception of one amendment. I am in hopes to present its report the latter part of this week or the first of next week.

The Secretary — The Committee on Corporations.

Mr. Wood — Mr. President, Judge Brenner, who is absent, sent word asking me to report that there will be a meeting of the Corporations Committee to-morrow when it is expected that all matters will be considered and disposed of and that within a week the committee will make its final report.

The Secretary — The Committee on Banking and Insurance.

Mr. Fobes — Mr. President, the committee will report on Thursday of this week.

The Secretary — The Committee on Military Affairs.

Mr. Latson — Mr. President, the committee offers its report.

The Secretary — Mr. Latson, from the Committee on Militia and Military Affairs, to which was referred Proposed Amendment introduced by Mr. Latson, number 546, introductory No. 531, entitled "Proposed constitutional amendment to amend Section 4, Article XI, in relation to the appointment of military officers by the Governor," reports in favor of the passage of the same with the following amendments:

Line 3, page 1, strike out the words "appointment of military officers by the Governor."

On line 5, page 1, strike out the words "the Adjutant-General of the state,".

On line 6, page 1, after the words "military secretary" insert the following words "and the Adjutant-General of the State" so that the same shall read as follows:

PROPOSED CONSTITUTIONAL AMENDMENT

To amend Section four of Article eleven of the Constitution in relation to the appointment of military officers by the Governor.

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

Section four of Article eleven of the Constitution is hereby amended so as to read as follows:

§ 4. The Governor shall appoint [the chiefs of the several staff departments,] his aides-de-camp, [and] military secretary [.] and the adjutant-general of the state, all of whom shall hold office during his pleasure, their commissions to expire with the term for which the governor shall have been elected; he shall also nominate, and with the consent of the senate appoint, all major-generals. *The legislature may prescribe the number and qualifications of major-generals and aides-de-camp.*

The President—Is there any motion to be made regarding the Proposed Amendment reported by the Committee on Military Affairs? There being no other disposition proposed, the amendment will be referred to the Committee of the Whole.

The Secretary—Mr. Latson, from the Committee on Military Affairs, to which was referred Proposed Amendment introduced by Mr. Latson, No. 549, introductory No. 534, entitled "Proposed constitutional amendment. To amend Section 5 of Article XI of the Constitution, in relation to the manner of election of military officers prescribed by Legislature," reported in favor of the passage of the same, with the following amendment: In line three, page one, strike out the words "Manner of election of military officers prescribed by Legislature."

The President—Is there any motion to be made regarding the proposed amendment? There being no other disposition proposed, the amendment will be referred to the Committee of the Whole.

The Secretary—Mr. Latson, from the Committee on Militia and Military Affairs, to which was referred Proposed Amendment introduced by Mr. Latson, No. 547, introductory No. 532, entitled "Proposed constitutional amendment, to amend Section one of Article eleven of the Constitution, in relation to the composition of the state militia," reported in favor of the passage of the same, with the following amendment: On line three, page one, strike out the words "State militia."

The President — Is there any motion to be made regarding this Proposed Amendment? No motion being made, the amendment will be referred to the Committee of the Whole. A further report from the Committee on Military Affairs.

The Secretary — Mr. Latson, from the Committee on Militia and Military Affairs, to which was referred Proposed Amendment introduced by Mr. Latson, No. 550, introductory No. 535, entitled "Proposed constitutional amendment to amend Section six of Article eleven of the Constitution, in relation to the removal of commissioned officers for absence without leave," reported in favor of the passage of the same, with the following amendment: On line 3, page 1, strike out the words "commissioned officers, their removal."

The President — Is there any motion to be made regarding the disposition of the Proposed Amendment? No motion being made, the amendment will be referred to the Committee of the Whole.

Mr. Latson — Mr. President, this brings the work of our committee to a close, except that certain amendments have been referred to this committee for information and opinion, and, with reference to those amendments, we are in communication and co-operation with the committees to which they were primarily referred. It is to be expected that before the close of the week such co-operation as is necessary with the other committees will have been completed.

The Secretary — Committee on Education.

Mr. Schurman — The Committee on Education has completed its work, and as a result it has laid before the Convention two Proposed Amendments. One of these is now on the calendar. The other was presented on Saturday and ordered printed and then laid on the table. I suppose, in the absence of objection, that would go automatically to the Committee of the Whole.

The President — The gentleman wishes to call up the amendment now. The Secretary will report the Proposed Amendment reported by the Committee on Education Saturday.

The Secretary — Mr. Schurman, from the Committee on Education, reported by proposed amendment, entitled "Proposed constitutional amendment to amend Article IX of the Constitution, in relation to city boards of education" (introductory No. 704) which was read twice, and said committee reported in favor of the passage of the same.

The President — Any motion to be made regarding the disposition of this Proposed Amendment? If not, it will be referred to the Committee of the Whole.

Mr. Stimson — I call up the report of the Committee on State Finances, which was laid on the table on Saturday for further disposition, and ask that it go to the Committee of the Whole.

The President — The Secretary will read the report of the committee.

The Secretary — Mr. Stimson, from the Committee on the State Finances, Revenues and Expenditures, to which was referred several proposed amendments in relation to debts contracted by the State, reported by Proposed Amendment entitled "Proposed constitutional amendment to amend sections two, four, five, eleven and twelve of Article VII of the Constitution, in relation to debts incurred by the State."

The Secretary — Second reading: To amend sections two, four, five, eleven and twelve of Article VII of the Constitution, in relation to debts incurred by the State.

The President — Is there any disposition to be moved? If there is no other disposition, the amendment will go to the Committee of the Whole.

The Secretary — The Committee on Charities.

Mr. Wickersham — The Chairman of the Committee on Charities asked me to say that he expects to report on Wednesday or Thursday of this week respecting the matters under consideration by that committee.

The Secretary — The Committee on Industrial Interests and Relations.

Mr. Parsons — The Committee on Industrial Interests and Relations expects to complete its reports this week. I submit two reports, Mr. President.

The Secretary — Mr. Parsons, from the Committee on Industrial Interests and Relations, to which was referred Proposed Amendment introduced by Mr. A. E. Smith, No. 195, introductory No. 194, entitled "Proposed constitutional amendment to amend Article III of the Constitution, by inserting a new section in relation to the delegation of legislative powers in matters affecting employees," reports as follows:

The Committee on Industrial Interests and Relations recommends the passage of the said amendment, with the following amendments:

Strike out in line 4 the words "in its discretion."

Strike out in lines 4 and 5 the words "duly constituted" and insert in lieu thereof the words "state board or".

Strike out in line 5 the words "board or administrative agency".

Strike out in line 6 the word "varying".

Strike out in line 7 the words "to existing conditions" and insert in lieu thereof the following: ", according to varying conditions,".

Strike out in line 8 the words "comfort" and "general".

Strike out in line 9 the word "employees" and insert in lieu thereof the words "any class or classes of persons or the public generally".

So that the Proposed Amendment will read as follows:

"Article 3 of the Constitution is hereby amended by inserting therein a new section to be appropriately numbered and to read as follows:

"Sec.— The Legislature may delegate to any state board or commission power to make rules and regulations, supplementing, modifying, adapting or otherwise applying, according to varying conditions, laws passed for the protection of the lives, health, safety or welfare of any class or classes of persons or the public generally".

The object of this Proposed Amendment is to enable the Legislature to delegate some of its power.

The President — Is there any motion to be made as to the disposition of this Proposed Amendment? Referred to the Committee of the Whole.

The Secretary — Mr. Parsons, from the Committee on Industrial Interests and Relations, to which was referred Proposed Amendment introduced by Mr. A. E. Smith, No. 196, introductory No. 195; and Proposed Amendment introduced by Mr. Parsons, No. 419, introductory No. 407, both of which relate to the power of the Legislature to prohibit manufacturing in dwellings, reports as follows:

The Committee on Industrial Interests and Relations recommends the passage of the Proposed Constitutional Amendment, No. 419, introductory No. 407, entitled "Proposed constitutional amendment, to amend Article III of the Constitution, in regard to the power of the Legislature to prohibit manufacturing in structures used for dwelling purposes," without amendment.

The President — Is there any disposition to be proposed of this amendment? Referred to the Committee of the Whole.

The Secretary — Committee on Conservation.

Mr. E. N. Smith — In the absence of the Chairman of the Committee on the Conservation of Natural Resources I report the committee expects to have completed its report and handed in its final report by Wednesday of next week.

The Secretary — Committee on Relation of the State to the Indians.

Mr. Lindsay — The Committee on the Relation of the State to the Indians has completed its labors. Its report is being prepared and will be presented early this week.

The Secretary — Committee on Future Amendments.

Mr. Hinman — Full hearings have been had with regard to all of the proposals referred to that committee, and I have reason

to believe that the committee will be prepared to make its report this week. I desire to say that a report of the Committee on Suffrage is at the desk and has been laid upon the table for further consideration, and if it is in order I desire to make a motion with regard to that report. The Committee on Suffrage has given full consideration to the question of the suffrage amendment, and has decided not to amend that section of the Constitution which deals with the qualifications of voters; but has decided that this Convention, so far as that committee is concerned, should not in any way interfere with the presentation of the matter to the people as it has been approved by the Legislature, with the result that the proposal of that committee amends one of the sections of the article referred to the Committee on Future Amendments and Revision; and I believe that it is proper in view of that fact, that when our committee makes its report, it should make a complete report with reference to those articles dealing with coincident submissions of this Convention and the Legislature; and I therefore move that the report of the Committee on Suffrage be referred to the Committee on Future Amendments and Revision.

Mr. Cullinan — With reference to the motion of Delegate Hinman, on behalf of the Committee on Suffrage, I can see no objection to such a course being taken.

The President — All in favor of the motion will say Aye, contrary No. The motion is agreed to.

The Secretary — Committee on Revision and Engrossment.

Mr. Rodenbeck — There are four amendments before the Committee on Revision and Engrossment referred to it by the Committee of the Whole. The committee expects to meet the early part of this week and report on those amendments.

The Secretary — Committee on Privileges and Elections.

Mr. C. H. Young — The duties of that committee have been so arduous during this session that we feel that we cannot present our final report until after next election day.

The Secretary — Committee on Printing.

Mr. Berri — As the Printing Committee cannot complete its work until the Convention completes its work, it can only report progress; but I will say probably it would be interesting to the members of this Convention to know that the amount of money expended for printing by the Convention to date, for work that has been ordered through the Printing Committee, has amounted to \$11,691; that there is in addition to that a comparatively small amount of printing that has been ordered directly by the Convention through the Committee on Contingent Expenses. This amount may appear to you very small, this sum of \$11,691, but the representatives of the printing firm, in response to my saying

that it did not seem proportionately large, compared to what was spent in the previous Convention, said, "Wait until the debates begin."

The Secretary — The Committee on Contingent Expenses.

Mr. S. K. Phillips — I am very glad that I have had the privilege of listening to Mr. Berri and his report on behalf of the Printing Committee, because if I had not heard it, I would have been utterly at a loss as to what report to make. The Committee on Contingent Expenses can only report on matters that have come before it, matters which have taken the proper course; this they have done; and, as you know, the end is not yet in sight.

The Secretary — Committee on Civil Service.

Mr. Rhees — The Committee on Civil Service has concluded its consideration of the main subjects that have been referred to it, and expects to make its report thereon on Wednesday or Thursday. There are one or two other matters which it has under consideration and which it expects to finish up and make its report on next week.

The Secretary — The Committee on Library and Information.

The Committee on Taxation.

Mr. M. Saxe — By the report which the committee made on July 22nd, of the proposal introduced, No. 679, print No. 756, on General Orders, No. 28 on the Calendar, the committee practically has completed its work. It has taken under consideration all the proposals which were referred to it; has given its opinion on those which were referred to it for that purpose, and has practically summed up its labor in the proposed article on taxation now on General Orders Calendar.

Mr. Wickersham — In view of the reports made by the chairmen of the respective committees, I shall not call up the resolution which I proposed on Thursday until some day later this week, and I will give twenty-four hours' notice of the intention to call it up.

Mr. Quigg — Which resolution is that?

Mr. Wickersham — The one as to days and hours of the session.

The President — Any further reports of standing committees?

Reports of select committees.

Third reading.

Unfinished business of General Orders.

Special Orders.

General Orders.

The Secretary will call the Calendar.

The President — Three amendments on General Orders having been moved, the Convention will go into the Committee of the Whole on the Calendar.

Mr. A. E. Smith will take the Chair.

The Chairman — The Convention is in the Committee of the Whole. The Secretary will call the Calendar.

The Secretary — No. 738, General Order No. 3, by Mr. J. G. Saxe.

Mr. J. G. Saxe — This was one of the first Proposed Amendments reported by a committee, and I moved it several times before it was joined by the companion bill, No. 732, by Mr. Tanner, and Mr. Tanner and I have duly and regularly moved these two bills about a dozen times since then. The Chairman of the Committee on the Judiciary informed me to-day that the report of the committee very possibly will cover this subject to a certain extent, and that these amendments should not be taken up until after the Judiciary report has come in and is disposed of. I shall, therefore, ask unanimous consent that my Proposed Amendment be placed at the foot of the Calendar.

The Chairman — Without objection, it is so ordered.

The Clerk will proceed with the call of the Calendar.

The Secretary — No. 732, General Order No. 9, by Mr. Tanner.

Mr. Tanner — Senator Saxe has already informed the Committee of the Whole that No. 3 and No. 9 are companion measures. If Senator Saxe's Proposed Amendment goes to the foot of the Calendar, it seems to me that the same disposition should be made of No. 9 on the Calendar. There is an additional reason why we should await the action of the Judiciary Committee in the Court of Claims matter. Mr. Wickersham in No. 14, General Orders, has a Proposed Amendment to Section 18, Article III, of the Constitution, which is on this same subject, and if this disposition is made, Mr. Wickersham, of No. 9, my amendment, I shall ask that No. 14, No. 3, and No. 9, be taken up together and ask that they go to the foot of the Calendar.

The Chairman — Without objection that order will be followed. The Clerk will proceed.

The Secretary — No. 733, General Order No. 10, by Mr. A. E. Smith. No. 88, General Order No. 12, by Mr. Leggett.

Mr. Wood — Mr. Chairman, Mr. Leggett asked me to request, if he was not present, that that amendment might be passed.

The Chairman — Without objection, that will be done.

The Secretary — No. 751, General Order No. 13, by Mr. Dunmore. No. 640, General Order No. 14, by Mr. Wickersham.

Mr. Wickersham — Mr. Chairman, that is the matter that was referred to by Mr. Tanner, and as to which it is agreed that it shall go to the foot of the Calendar with No. 3 and No. 9.

The Secretary — No. 742, General Order No. 18, by Messrs Steinbrink, Nixon, Wiggins, A. E. Smith and Mann.

Mr. Steinbrink — Mr. Chairman and gentlemen. Having in mind the admonition contained in the report of the Chairman of the Printing Committee that the printer waits longingly for us to talk at length, I shall be as brief as the importance of this subject permits. Before this Convention there are a number of proposals which are correlated to the proposal reported by the Suffrage Committee. Proposal No. 42 relates to the registration and voting of absentees from an election district, and I explain these briefly so that the report of the Suffrage Committee may the better be understood.

Print No. 91, introduced by Mr. Nixon, seeks to protect the vote of Federal employees absent from an election district on election day; print No. 127 seeks to protect the registration of voters absent from election districts, and was introduced by Mr. Wiggins; Int. No. 247, introduced by Mr. A. E. Smith, seeks to protect the vote of railroad employees, and print No. 285, offered by Mr. Mann, provides generally for the registration and voting of all absent electors. As a condensation of all of these proposals and somewhat in the nature of a compromise the Committee on Suffrage reported favorably No. 742, which is as follows:

The Legislature shall provide for the registration without personal appearance of citizens entitled to vote who are Federal employees or commercial travelers or are regularly employed on railroad trains and who shall have been absent from the county in which they reside on the day or days designated for registration. You will observe that this report relates only to absentee registration and eliminates all suggestion of absentee voting; also this proposal limits absentee registration to three classes of voters; Federal employees, commercial travelers or those regularly employed on railroad trains; and again the reported proposal limits it further to those absent not from the election district but absent from the county on the days of registration. Now at a time when before this Convention there are proposals which seek to give to women the right, or to extend to them the privilege of franchise; at a time when before this Convention is a proposal for a literacy test of voters; at a time when there is before this Convention a proposal to punish the delinquent or negligent voter who fails to exercise his franchise, it seems most anomalous that there should not be provided in this State the machinery which will give to more than 110,000 men the privilege of exercising the franchise when they are more than anxious to exercise it. A paper prepared by Mr. Dos Passos of the New York Bar recently came to my knowledge. He says the following:

“The most wonderful political fabric that man can weave will crumble to pieces if it be not properly administered. A government on paper or in theory is one thing, but a government in action or practice may be a totally different affair. It is, therefore, essential in analyzing the condition of the nation to look rather to the administration of the government than to its form”—and this proposal looks to the administration of government rather than to form.

Recently, and as recently as March or April of this year, this same proposal, in a modified or broadened form, was adopted in the House of Representatives, where Congressman Rogers of Massachusetts sought to have enacted a national absentee voting law. In the course of the debate—and I read from the Congressional Record—Congressman Rogers referred to a recent message sent by the newly-elected Governor of Ohio to the Ohio State Legislature, which was as follows: “No doubt the secretary of state will have important recommendations to make touching amendment of the election laws. At this time I desire only to suggest for your consideration the advisability of providing by legislation for a system of registering and voting by mail. Such a law must be most carefully drawn in order to prevent fraud and preserve the purity of the ballot. Its enactment would preserve the right of franchise to the thousands of our voters who now by the exigencies of their vocation are prevented from registering and voting. In this connection I also recommend that the so-called students’ voting law providing for the disfranchisement of students, once vetoed by Governor Harmon and subsequently placed on the statute books, be repealed. Ohio cannot afford to place a penalty on desire for knowledge.” Nor can New York place a penalty on desire for knowledge.

After reading that I communicated with the Department of the Interior, the Bureau of Education, and to my amazement I learned that in the States of New Hampshire, Massachusetts, Connecticut, Pennsylvania, New Jersey, and the District of Columbia, there were 4,949 New York students registered at universities in these States. In addition, in the State of New York there are 19,498 students registered at colleges within the State of New York, but away from their homes—a total of 25,000 the majority of whom are over the age of 21.

Mr. Quigg—What does your Proposed Amendment do for the students?

Mr. Steinbrink—Nothing; but I am in favor, Mr. Quigg, of making the proposal general in language. I know of no reason why this should be extended to commercial travelers, in whom I am primarily interested, and railroad employees, and Federal

employees, and at the same time deny it to either students or actors or the thousands of others who should have the same right.

Mr. Quigg — Is there anything in the Constitution to-day that forbids the Legislature to make this enactment as general and as broad as it pleases?

Mr. Steinbrink — I am informed that in two Legislatures a proposal of this kind was offered and each time was cast aside because the able lawyers of the Legislature were of the opinion that it was in contravention of the Constitution; and that, since no provision was contained in the Constitution to provide for registry by mail, the Legislature had no power to do it.

I also communicated with the Department of Commerce and requested of it that it furnish me with the statistics showing the number of voters in the State of New York who, by reason of their vocations, would probably be taken away from home either on the days of registration or on election day. In return I find that there are 25,123 railroad employees; there are 62,000 commercial travelers in the State of New York; there are 7,367 actors; there are 2,609 Federal employees who are in Washington, and who, in order to exercise the right which is theirs, must return to their homes first on registration day, and again on election.

Mr. Wagner — Did you make any calculations of the stage hands that accompany these actors through the country? There are quite as many of those as there are actors.

Mr. Steinbrink — These statistics, Mr. Wagner, are that there are 2,420 showmen and 4,947 actors — the distinction I do not know, but I gave the total as 7,367. That does not include the class of persons to which you referred. Now, in addition to those, there are the following classes of vocations which would probably take them away from home: fishermen, oystermen, lumbermen, canvassers, soldiers, sailors and marines — and they are partially provided for now — sailors and deckhands, captains, mates, masters and pilots — a total of approximately 118,000 citizens of the State of New York who should have provided for them the machinery by which they may vote.

Now I readily appreciate that to provide for absentee voting might open the door to fraud. The classes for which I ask this are willing to return to the State on election day, are willing to return to the counties of their residence on election day, but they do not wish to be brought back twice. And the registration can be simplified and can be amply protected by affidavit, duly authenticated; and, if you please, adding to that the identification of photograph, or thumbprint, as it is done in western states.

Mr. D. Nicoll — Are you speaking in favor of any other classes, except the classes included in this Proposed Amendment?

Mr. Steinbrink — I am speaking generally for Proposal No. 742, Mr. Nicoll, because primarily my interest is for the commercial travelers, but I am not at all selfish about it. I believe that the classes should be stricken from the proposal. I believe that the words "who are Federal employees or commercial travelers or are regularly employed on railroad trains", should be stricken from the proposal. So that it would then read: "The Legislature shall provide for the registration, without personal appearance, of citizens entitled to vote who shall have been absent from the county in which they reside on the day or days designated for registration." I say it should be made thus general because it would be fair to all classes.

Mr. D. Nicoll — Do you mean irrespective of their occupations? How about if they were away on pleasure or anything of that sort?

Mr. Steinbrink — No.

Mr. D. Nicoll — You do not say anything of that sort — "Who shall have been absent".

Mr. Steinbrink — Because the Legislature could still safeguard it by demanding that in the affidavit which they must file they must swear to their unavoidable absence and it could be protected to that extent.

Mr. Foley — I wanted to ask if the gentleman would extend it to inmates of reformatories?

Mr. Steinbrink — I would not.

Mr. Foley — Within your definition such men would be entitled to register.

Mr. Steinbrink — I understand there is another provision of the Constitution which disfranchises them.

Mr. Foley — Not misdemeanants.

Mr. Steinbrink — Well there should be. I have not thought of including inmates of prisons or reformatories.

Mr. Parsons — When would these registrations have to be made?

Mr. Steinbrink — That would be for the Legislature to say, but let me say very frankly, Mr. Parsons, that I think this proposal goes hand in hand with your proposal, and that the days of registration should be moved sufficiently forward to allow the filing of these affidavits so that plenty of time would be given to a proper investigation of suspicious cases.

Mr. Parsons — Under the amendment as it is proposed there is no time limit when the registration should be filed, whereas in Section 4 of Article II, every person who registers in person must be registered at least ten days before election. Ought this not either to be inserted as part of Section 4 of Article II, or

some definite limitation of the time when the registration should be filed, inserted in this section?

Mr. Steinbrink — I think it would be better and safer.

Mr. Parsons — I have no doubt that you have carefully considered the power of the Legislature to require the giving of details by those who would be registered under this provision. Have you any doubt that the Legislature could require a person, an absentee, who desires to register under this to say by whom he was employed, if employed, and where he was working on the registration days?

Mr. Steinbrink — I haven't any doubt that the Legislature could so provide, that all might be embodied in the affidavits, which it would be necessary to file.

Mr. Parsons — The reason I asked that is because the section is mandatory: "The Legislature shall provide for the registration without personal appearance;" it is not merely a power, "may provide," but it says it "shall provide." Under those circumstances might it not be claimed that the power of the Legislature in exercising that mandatory direction is limited and that it could not impose limitations such as requiring details in the registration application as to where the person was on the day in question, and by whom he was employed, and so on?

Mr. Steinbrink — I don't think so, and I base my conclusion on the fact that the Legislature under the general power granted by the Constitution of 1894, laid down limitations which were somewhat beyond the limitations which I believe they had the right to lay down with reference to elections and primary elections. That was so as recently as a year ago last spring. The Legislature provided in the Election Law that if anyone had enrolled as a member of a party in one election district and between the time of that enrollment and the next primary had moved, he could not vote at the primary even though he remained in the same Assembly district and had only moved into another election district. Now that was not a power conferred by the Legislature, yet the Legislature so enacted.

Mr. Parsons — Well, but the limitation on registration is by Section 4. Now if you insert a new section following that, should not the limitations of Section 4 apply on a new section? Must you not incorporate this new section into Section 4 or insert your limitations in a new section?

Mr. Steinbrink — Or add this to the end of Section 4, that it may be read together.

Mr. Parsons — Well, make it part of Section 4.

Mr. Steinbrink — I think that would cover it entirely?

Mr. Lincoln — Why make it applicable to the entire Section

4? Why not make it applicable only to the provision of Section 4 relating to cities and villages having 5,000 inhabitants or more?

Mr. Steinbrink — It would only apply anyway, I believe, in cases where personal registration was required.

Mr. Lincoln — Why not insert it immediately after that provision of Section 4, relating to cities and villages having 5,000 inhabitants?

Mr. Steinbrink — I believe it would be surplusage. I do not think it is necessary because the Constitution now provides that personal registration is required in those communities.

Mr. Lincoln — And that is the only occasion, if you will yield — that is the only occasion when this absentee registration is necessary?

Mr. Steinbrink — It is. In other words, in the sparsely settled districts personal registration is not now required; consequently, if a man were away from his county and was not required to register, he could not be required to register as an absentee, because there could not be found in the Constitution any requirement calling upon him to personally register.

Mr. Lincoln — If you will yield again — it is not a question of requiring a man to register. It is a question of his having the privilege of being registered, which he has in the country districts, in the districts other than cities and villages of over 5,000 inhabitants. He has that privilege now.

Mr. Steinbrink — Yes.

Mr. Lincoln — And it is only in the districts where you have 5,000 inhabitants or more that this absentee registration is necessary?

Mr. Steinbrink — The only place where it could possibly apply.

Mr. Lincoln — Then I suggest that this provision be added to that part of Section 4 relating to cities or villages having over 5,000 inhabitants.

Mr. Steinbrink — If that is the only place where it could possibly apply, then there could not possibly be anything gained by adding it.

Mr. Buxbaum — Does not the Proposed Amendment of Mr. Mann in the words, the Legislature "may likewise provide for the registration and voting of other absent electors" embody all the matters and things which you have urged here to-night?

Mr. Steinbrink — No. The trouble with that proposal is that at the same time it provides for absentee voting which is the very thing that the Suffrage Committee, I was informed, was opposed to, because that might open the door to fraud. In other words, there would be a system under which votes would come in by mail. They might be straggling votes. They might be received after

the polls were closed, a day after election day, or two days after. They might come from far distant places and not be received at the polling-place before the close of the polls. I think that is the fault with that proposal.

Mr. Buxbaum — If you deem it safe to permit the Legislature to enact legislation permitting registration by absentee voters, would it not be just as safe to permit them to enact legislation to provide for the voting of absentee electors?

Mr. Steinbrink — I do not think so, Mr. Buxbaum, for this reason. All that the absentee registration does is to relieve them from an extra trip back to their homes, provided they live in communities of more than 5,000, and the absentee voting would permit them, in addition, to cast a vote without ever appearing in person at the polls. Under the absentee registration they must appear in person at the polls to cast the vote for which they registered by mail.

Mr. Quigg — Now, as to commercial travelers or persons on railroad trains, I can see some force in this; as to actors off on the road I could see some force in it; but why should not Federal employees come home. They are employed regularly and permanently and they work eight hours a day and get good pay for it. Why should not they come home to register?

Mr. Steinbrink — In the first place, Mr. Quigg, your question assumes that they all get good pay. In addition, many of these men who receive perhaps \$1000 or \$1500, some of whom are supporting families on that amount, cannot afford to spend the ten or twenty dollars for railroad fare in order to return, and this necessitates, as it is now, their return twice.

Mr. Quigg — Can they not as well afford to do it as anybody else can in any other situation? Why should they be preferred?

Mr. Steinbrink — They all should be granted the privilege.

Mr. Quigg — No, that is another thing.

Mr. Steinbrink — I don't say, Mr. Quigg, that they should be preferred.

Mr. Wagner — The gentleman who is speaking on behalf of this amendment, being a resident and voter of New York City, I am sure in the past has resented, as I have, the discriminatory legislation which has been enacted against the citizens of New York, from which discriminations citizens in the rest of the State were relieved; and in order that there may not be a repetition in the future — and I am sure that was what in general concerned Delegate Parsons, when he asked the question a moment ago — in order that those discriminations may not be repeated again in the future, I am sure the gentleman would accept my amendment to this proposal that after the word "registration" we should put these words: "by laws of uniform application."

Mr. Steinbrink — No, Senator Wagner, for this reason, and most emphatically no; I do not agree that there has been discrimination against the city of New York. The provision in the present Constitution requires personal registration in communities of more than five thousand. That is not discrimination as against the city of New York with its five million of people for there are many places in the State of New York with a population of more than 5,000, and you probably know as well as I, and better than I, that that provision has been kept in the Constitution to prevent frauds in the thickly settled communities. In the sparsely settled community almost every man knows his neighbor. That is not so in the larger cities.

Mr. Wagner — This has no application to personal registration. This has application to registration other than personal registration. Now as to those cases, citizens all over the State, whether they reside in the interior of the State or in the city of New York, should be treated alike, and I am astonished that the gentleman coming from New York should approve of the legislation which has been enacted by past Legislatures, discriminating against the citizens of New York as against thickly-populated sections in other parts of this State, such as Buffalo, Syracuse, etc. I am sure that the gentleman would not assent to the legislation enacted only in the past session of the Legislature by which the signature law was extended to the primary law with reference to primary elections in the city of New York, and those residing in other thickly-populated sections throughout this State were relieved from that additional burden.

Now, in order that there may not be these repetitions, I ask that you have a provision in the Constitution for laws of uniform application, and since it does not now affect settlements of less than 5,000 inhabitants, you could only, even by my proposal, affect the thickly-populated sections in other parts of the State outside of the city of New York. I do it because I do not like constantly to have this reflection upon our city, that they require, because of a dishonest tendency in them, supervision which is not required of citizens of Buffalo, Syracuse, Rochester or other places.

Mr. Steinbrink — Now, is that the end of the question?

Mr. Wickersham — Does the gentleman from New York (Mr. Wagner) think that requiring him to sign his name is a discrimination?

Mr. Wagner — It is when you say that I, living in New York, must do it; and that I, living in Syracuse, Rochester or some other city, must not do it. And when the distinguished representatives from those sections say "we will vote for it for New York but you cannot pass it in this form if you apply it to our citizens", then

I say it is a discrimination, and any citizen of New York should resent it as heatedly as I am doing here.

Mr. Wickersham—I am surprised, Mr. Chairman, that the gentleman does not see the compliment paid to the city of New York in the recognition of the literacy of its citizenship.

Mr. Wagner—Well, if the distinguished ex-Attorney-General of the United States is satisfied, or satisfies his conscience and his sense of justice, with an answer of that kind, I don't want to go any further in the discussion.

The Chairman—The gentleman from New York, Mr. Ahearn, makes the point of order that Mr. Steinbrink has the floor, and the point is well taken.

Mr. Sheehan—The suggestion I have to make for your consideration is whether or not the words "day or" should not be stricken out so that no one should be entitled, in case this amendment is passed as now proposed—so that no one would be entitled to the protection of it unless he was absent on all of the days of registration. In other words, as you have it now, a man might be present in the city on the first day of registration and not take advantage of his opportunity of registering, but if he is not there on any of the other three succeeding days he may take advantage of this, and I suggest that nobody should be permitted to take advantage of it unless he is absent on every day possible for him to register in person.

Mr. Steinbrink—Governor Sheehan, I agree with you absolutely, but I understand there are communities in the State where they have only one day of registration.

Mr. Sheehan—Where are they? I don't know where they are.

Mr. Steinbrink—The Election Law would disclose that.

Mr. Sheehan—It must be up along the Canadian border—I never heard of it—or along the Pennsylvania border.

Mr. Steinbrink—It probably is in some of the communities having 5,000 inhabitants. If that is not so, then there is nothing lost by striking out the words "day or" because unless a man is absent on all the days of registration he should not be permitted to register by mail.

Mr. Barnes—I think you have committed a mistake from your own point of view here, Mr. Steinbrink. This absence is not on the particular days; it is an anticipated absence and this should be in advance, otherwise you are going to get into the difficulty that your days of registration would have passed—Mr. Sheehan raised that point just now—and then you have to register the man after it is over, when you have no opportunity to investigate it. The registration should close upon the regular

day, and this ought to be an application to the board of inspectors in advance of absence that is to take place.

Mr. Steinbrink — No.

Mr. Barnes — You will not get the effect you desire if you do not do it.

Mr. Steinbrink — I will tell you why, Mr. Barnes. I said a moment ago that this proposal went hand in hand with the proposal of Delegate Parsons to move the days of registration forward, to give further time for investigation.

Mr. Barnes — How much forward?

Mr. Steinbrink — A week, ten days or two weeks, or thirty days.

Mr. Barnes — That will not be enough.

Mr. Steinbrink — The Legislature can provide that the affidavit registering by mail must be in the hands of the election officials within, say, two or three days after the last day of registration.

Mr. Barnes — That is a great mistake if you do that. You must have that registration close at a certain date. It should not be permissive to have any registration after the last day and these applications should be in on the last day, if this is going to be done, and therefore the whole motion is anticipatory and should be made possible by your proposal if you wish to get the good out of it. For instance, if a man knows he is in Washington — it is largely a matter of expense; possibly a matter of time, but largely a matter of expense for him to come to New York State. It costs at least ten dollars to get to Manhattan and anywhere from ten to forty dollars to get to the more remote parts of the State. This is to put him on an equal footing, owing to the expense which he is called upon to make to register, and in that event he knows well in advance and he should be permitted by affidavit, if the plan is correct, to send to the board of inspectors his affidavit, properly certified and sworn to. There is no necessity of waiting at all. It does not involve anything — the sooner the better, because then the longer the investigation. So if you change your language — you have it those “Who shall have been absent”; make it read those “who will be absent from the county in which they reside on the days designated for registration.”

Mr. Quigg — Does not that put a premium on absence?

Mr. Barnes — I am not discussing the proposition from that angle. I am discussing whether this proposal meets the will of the projector.

Mr. Lincoln — May I call your attention to a proposal introduced by me, number 165, which took the same aspect of it that you suggest?

Mr. Byrne — Mr. Chairman, I raise the point of order that the gentleman is now interrogating Mr. Barnes, who asked the gentleman from Kings to yield for a question.

The Chairman — Delegates who desire to ask questions will please ask permission of the Chair.

Mr. Lincoln — Now in respect to the suggestion of Mr. Barnes, I introduced amendment No. 165, which was not mentioned in the list of amendments which the Committee on Suffrage reported and which I am sure was an oversight on their part, because it relates to exactly the same subject which we are now discussing. No. 165, on page 2 of the printed copy, says after the provision relating to cities and villages, having 5,000 inhabitants or more: "except that laws may be made providing that in such cities and villages voters may, on the first day prescribed for registration, be registered without personal application, on filing with the Board of Registry, proof as required by law that they will not be able to register personally on any of the days prescribed for registration". I think that meets exactly the suggestion that you make.

Mr. Barnes — That is exactly the point, Mr. Steinbrink, which I think is extremely important in the consideration of this matter, that the earlier the registration is made, then the less opportunity for fraud. It should not be put off until the end; it should be done at the very beginning.

Mr. Steinbrink — The difficulty, to my mind, would be that it would encourage absence from the places of registration rather than discourage it. In addition, a man might anticipate his absence, file the necessary affidavit and still not be absent when the day of registration came around. Now those are matters, of course, that must be considered when the time comes for final disposition of this and for perfecting it. Mr. Chairman, there are, I understand, others who desire to say something regarding this proposal, those especially who were interested in the correlated proposals. When they shall have finished I shall ask leave to report progress and to sit again.

Mr. Cobb — Do not you think this amendment would be improved if in place of the word "shall" you inserted the word "may"? This would obviate the objection that you suggested, that the Legislature has not now power to enact suitable laws, and also would avoid on our part this classification of conductors and stage-hands, and that sort of thing which hardly seems suitable for a Constitution. Using your general language, but substituting so as to read that the Legislature may provide for the registration, which would leave it entirely in their hands.

Mr. Steinbrink — That would not affect the classes. It would empower the Legislature to do this, rather than to make it mandatory upon them.

Mr. Cobb — Do not you think the classification is a more suitable work for the Legislature than for the Delegates to a Constitutional Convention?

Mr. Steinbrink — I do, and that is why I said I believe the proposal should be general in its language and should not specify classes.

Mr. Cobb — Yes, but under your mandatory provision, Mr. Steinbrink, they would be compelled to permit the registration of any person who was absent from the county, no matter what his occupation might be.

Mr. Steinbrink — That is right, and, so far as commercial travelers are concerned, I am perfectly willing that that change should be made, for they have had from past Legislatures the assurance that, if it could be done, it would be done.

Mr. Cobb — You would consent to the substitution of "may" for "shall"?

Mr. Steinbrink — Certainly, but, of course, I cannot speak for the other four gentlemen whose proposals are before the House.

Mr. Marshall — There seems to be no protective provision in this law, so far as I can see, and I ask if it might not be well at the end of the clause to add words substantially like these:

"Provision being made for ascertaining by proper proof the qualifications of such voters and the fact of their absence."

That is merely a rough suggestion, but it is in keeping with the provision in Section 4, "Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage."

Mr. Steinbrink — That would be impossible if you would adopt the suggestion of Delegate Barnes of Albany, because you say to "ascertain the fact of their absence." Mr. Barnes's suggestion is that the registration be in advance of registration day.

Mr. Marshall — If Mr. Barnes's suggestion was adopted, you would ascertain the circumstances attending their absence. There is absolutely nothing in this provision by way of a requirement of a safeguard so that the Legislature under this present form is required to pass a form, as to personal appearance, without any requirement of proofs afforded which are directed regarding qualifications of voters and regarding the jurisdictional fact relating to an intentional or actual absence on days of registration.

Mr. Steinbrink — And please do not understand that I combat you on any question of constitutional law, for I would not do that — but does not Section 4 of Article II already make that provision in that it provides that laws shall be made for ascertaining by

proper proofs the citizens who shall be entitled to the right of suffrage hereby established, and for the registration of voters?

Mr. Marshall — The difficulty I find with it, visualizing it side by side, Section 4 as it now stands, and this new section, it seems they are providing for two different things, and there is at once a question of interpretation which might result in serious difficulty. I am only giving you this suggestion in order that it may be thought out, and not as captious criticism, but in the way of aiding in the deliberation.

Mr. Steinbrink — I understand.

Mr. Marshall — I also ask another question: If there may not be difficulty with this provision that this provision shall relate to absence from the county in which these citizens reside — that would cover a case of a citizen of New York who is in Kings, and a citizen of Kings county who is in New York, and it might perhaps prove a fruitful occasion for fraud? Might it not possibly provide for absence from the State, or absence at a point fifty or one hundred miles from the election district of the voter? This is also merely by way of suggestion.

Mr. Steinbrink — But let me answer the suggestion by this: That if you put in "absence from the State," you would immediately defeat what Mr. Smith sought to accomplish by his proposal on behalf of railroad employees. If an Albany resident is sent on a run to Buffalo and perhaps kept there over the day or days of registration and is still within the State, he would not be benefited by this proposed change. A citizen of Kings might be in Buffalo and that would necessitate his return, and that is why it was made county instead of state.

Mr. Marshall — There undoubtedly may be such cases, but we cannot provide for every possible case. We have gone along now for twenty-one years, and we have caused no really serious misfortune to anybody, or to the State, and even if there should be a minimum number of voters who would be disfranchised by reason of their inability to be present at the time of registration, still, if a provision is made which will take care of a large percentage of the class you have in mind, we will have accomplished all that can be accomplished in an Election Law.

Mr. Steinbrink — Without desire to be at all selfish, so far as I am concerned, "absence from the state" would satisfy the object of my own proposal.

Mr. Parsons — Could not the object be accomplished by adopting Mr. Marshall's suggestion that you put a distance limit on it of, say, fifty or a hundred miles?

Mr. Steinbrink — It can be accomplished very readily.

Mr. Unger — Mr. Steinbrink has read this proposal which permits one who is a Federal employee, or a commercial traveler, or

a regular employee on a railroad train, simply by reason of that adventitious fact, to vote, provided he be absent from the county in which he resides on registration day. Does that mean that the Federal employee, outside of his duties, aside from the business that he is performing, may go on a pleasure jaunt to the Panama Exposition on registration day and still be entitled to vote?

Mr. Steinbrink — I should say in its general language, that is what it would mean, exactly as it would apply if it were made general in terms, and if you were called to San Francisco, or to a far-distant point, on business, and were unavoidably away, that you might register by mail, provided you came back to vote on election day.

Mr. Unger — Mr. Steinbrink, that is not the point I am getting at. The point I am getting at is this: This proposal apparently gives the power to the Legislature, or rather directs the Legislature to enact laws providing that a Federal employee who happens to be absent from the State on registration day shall be permitted to vote, which means that whether or not he is away on the business of the United States, he still may be permitted to vote on election day, or to register on registration day. In other words, if that Federal employee shall see fit to go, as I suggested, to San Francisco on a pleasure jaunt, away from New York, or to Westchester simply to visit a relative, or to pay his respects to a friend, on a registration day, the Legislature should be permitted to enact laws allowing him to vote. Is not that it?

Mr. Steinbrink — The point is exactly what it says, and it is as plain as it can be, as it is worded; that absence on registration day would permit him to register, provided the Legislature had made the proper provision.

Mr. Buxbaum — I move to substitute in place of the Proposed Amendment, the amendment of Mr. Mann, introductory No. 285, with the words, "and it may likewise provide for the registration of absent electors". That would do away with all the suggestions and objections which have been made upon the floor to the Proposed Amendment in support of which Mr. Steinbrink has so ably argued.

Mr. J. G. Saxe — I do not want to take up much of the time of the Convention, but inasmuch as I was Chairman of the sub-committee which had charge of the preparation of this particular constitutional amendment, I think I should say a word to give the Convention the benefit of the ideas of the Committee on Suffrage, and of the particular sub-committee, and of the introducers of the various bills, in so far as they were communicated to us, and the arguments that were presented at great length to the whole Suffrage Committee in public hearing. My recollection is that all

of the amendments which were introduced and referred to the Committee on Suffrage, relating to this subject, were unanimously laid on the table. My recollection is that this particular amendment, reported by the sub-committee, was carried by an almost unanimous vote, no more than two members of the committee voting in the negative. Coming to the general reason behind this bill, the members of this Convention, of course, are familiar with the fact that the voters of New York State are to-day divided into two classes: Those who live in city districts and in villages of over five thousand inhabitants, who are absolutely bound to register personally; and those who live in villages of five thousand or under, who cannot be required to register personally. This amendment relates to that last class. We have to-day the big group of country voters who do not have to register personally. This amendment was for three special and deserving classes who have been represented before our committee, and who have argued that we allow these three classes to register without personal application; in other words, by such strict rule as the Legislature in its wisdom may see fit to provide, and that is the idea of this amendment, relating just to those three classes of people.

Now, the question which Mr. Parsons asked of Mr. Steinbrink was whether or not this should not be incorporated in the same section that general registration is concerned with.

Well, we concede very possibly it will be before we get to the final reading and finish with the Committee on Revision; but we had something like four different thoughts by way of amendment in relation to that section at that time and we thought the simplest way to bring this question up as a clear-cut proposition for the Convention to discuss was to bring it up in the form of this present section and very possibly when we have discussed the whole matter of Section 2 of Article II or Section 4 of Article II, we will want to incorporate this section in it. That is something we will have to decide here. One word further as to the preparation of this amendment. When this sub-committee took hold of this proposition, it did so after conferring with the members of the general committee, and this particular amendment was prepared by the sub-committee, with Mr. Steinbrink's very able assistance, and before we reported it, we showed it to everyone of the introducers of the various propositions and made sure that each and everyone was abundantly satisfied with it, so far as he was concerned.

Now, I may want to say something further on this subject when the debate proceeds a good deal further. All I am trying to do at this point is to give the views of the committee on the different questions which have been raised up to this point, and I think I

may say this, that there is no question which has been asked here to-night which has not been asked in the Suffrage Committee.

The first point which you will note in this bill is that it does not apply to voting on election day. I think every one, or nearly every one of the Proposed Amendments relate to voting on election day quite as much as they do to registration on registration day, and to that the committee was opposed and I might say this, that of all the speakers who spoke before us there was only one who asked to have relief as to voting.

Of course, under the present Constitution, the only considerable exception to the general rule of voting is in case of actual war time, in soldiers' and sailors' elections, and then the elections were held in war time, with same secrecy as we have in our elections, and with proper safeguards, and the result is sent back in sealed envelopes; that would be utterly impracticable if we tried to make provision for absentee voting on election day somewhere outside of the State and tried to go through any such war election as is carried on under the other section of the Constitution. So this relates only to registration.

Now, the committee was in favor of this amendment, and they were in favor of this amendment just as much as they were in favor of registration in general, and that is why they used substantially the same language. We do not say "The Legislature may provide". In the preceding section we state that laws "shall" be made for the registration of voters, and so here in this proposed amendment we say "The Legislature shall provide".

Members of that committee believe these classes of voters should be looked after; we believe that men who live in Washington and men who by the exceptional nature of their business, are required in a business way to be away in large numbers on registration day, should be put within the same class as country voters and be allowed to register by affidavit; and we believe this, and that is why we use the same language as the former or earlier section so as to make it mandatory.

Now, as to the three classes, those are the only three classes that appeared before us, and I have yet to see a general amendment to include all classes which would get a majority of the delegates of any Convention. I don't know, but from what I know of the different amendments which are put in, it seemed to me almost any of them, with all due respect to the introducers, would open the door wide to fraud, and I would not be surprised that even under this extremely narrow bill, which we have prepared, that in some districts there may be a considerable number of employees engaged on railroad trains who may come along with an affidavit and who don't know what a railroad train looks like, but this is as far as the committee by a very large majority was willing to go.

Now as to one of Mr. Marshall's questions as to why we made it the county instead of the State. We made it the county instead of the election district. Practically all the propositions that came to us would permit a man to vote if he walked across the street in a city where the various districts were only divided by the line of the street of the village or the city; but there was testimony before us and very convincing testimony, that there were a great many thousands of commercial travelers, who are perfectly willing to come home to vote on election day, who are necessarily outside of the county on their business every one of the days of registration.

Now, in all fairness and justice, if you are going to allow the countryman in villages of less than 5,000 inhabitants, to register his name without any affidavit, by just the inspector writing down the names of men who voted the last year and any other name, as is at present permitted, I do not see any reason why a man, an elector, such as a commercial traveler, who is not too lazy to come to vote, but who is compelled to be out of the county, who is necessarily outside of the county on his business engagements, should not be allowed by proper affidavit to be provided by the Legislature to vote, without personal application, on election day.

Mr. Cullinan — Will the gentleman call the attention of the House to the provision of law which allows a man in the country to register, or to have his name registered, without personal appearance?

Mr. J. G. Saxe — I was doing that very thing, Mr. Cullinan. Perhaps I talked so rapidly that my distinguished Chairman did not follow me. The point in this, as Mr. Cullinan seeks to call to my attention now, and the point which I was trying to make, that under our Constitution you cannot compel personal registration in villages of 5,000 inhabitants and less; and the Committee on Suffrage believes that that right, that same right should be extended to those people who come within one of the three classes.

Mr. J. G. Saxe — There are three gentlemen, Mr. Chairman, who are asking me to yield.

Mr. Cullinan — Mr. Chairman, I think I am entitled to preference, because he has not answered my question yet. I asked the gentleman to quote the provision of statute law, or the Constitution, which permits a man in the country to be registered without personal application on all the days of registration, as you have alleged.

Mr. J. G. Saxe — In Section 4 of Article II, "but voters not residing in such cities or villages shall not be required to apply in person for registration at the first meeting of the officers having charge of the registry of voters."

Mr. Cullinan — So he is obliged to register on every other day excepting the first day.

Mr. J. G. Saxe — No, sir. He never was until two years ago when we came into power and made him do so by legislation. Under the Constitution he is not required to do it.

Mr. Cullinan — That is not the interpretation put upon it by the Court of Appeals.

Mr. J. G. Saxe — It is the interpretation put upon it by the Court of Appeals, sir; you are in error.

Mr. Clinton — I have listened, Mr. Saxe, as to what the committee intended to accomplish, and among other things, you stated two classes — three here — who should be entitled to the privilege of registering where they were necessarily absent, in the amendment which carries out that idea. It simply provides that if they are absent. My suggestion is that there should be something in there referring to the necessity of absence. I don't mean absolute necessity, but if they are absent on account of the demands of their business. I am not giving the words.

Mr. J. G. Saxe — Mr. Chairman, we have considered Mr. Clinton's suggestion. Now, going back to our country districts again, they are not even absent. Their names go on the roll if the inspector says so, without their even being absent. Now, are not these men necessarily absent? Federal employees?

Mr. Clinton — Yes.

Mr. J. G. Saxe — Commercial travelers —

Mr. Clinton — No.

Mr. F. L. Young — Will the gentleman kindly afford me enlightenment and give me a legal definition of the term "commercial traveler"?

Mr. J. G. Saxe — I respectfully refer the gentleman to Mr. Steinbrink for that.

That brings me to one other word — I am taking this up piecemeal, without any preparation — but I want to go back to one word with respect to Mr. Parsons' suggestion about the amendment being made in different sections or in one section. If Mr. Parsons will look at No. 729, my Proposed Amendment, the principal purpose of which is to restore the State convention, and will turn to page 2, line 1, he will notice that we have changed the language as to registration in one respect, by providing that voters shall be registered annually; a general provision which would apply to all registration. That is an entirely separate amendment from the question of restoring the State convention and one which I shall bring up some way, in a separate way, before this House, and I don't think it worth while debating it at this time. I just wanted to call attention to the fact that the Suffrage Committee has reported in specific language —

Mr. Parsons — How does that meet the point I made? This section which I propose is still without possibility of the safeguards which we have by virtue of Section 4.

Mr. J. G. Saxe — That is not the question on which I was speaking, but the ten-day provision to which you referred.

Mr. Parsons — I observed that if this other amendment was adopted, it would apply the ten-day provision to all registration.

Mr. J. G. Saxe — Now, I think I have replied to all of the suggestions except Mr. Barnes's of Albany, and that is whether you are going to have your registration first and have your proofs come promptly along afterwards within a few days, to be determined by the Legislature, or whether you are going to do it the other way around, and then very possibly the man will be in the city on a registration day and not take the trouble to go and register. It is just a question of policy, and the committee has considered the possibility of providing that within three days, even, affidavits must be filed with the board in each one of these three classes. That is a question of opinion to be decided by the delegates.

Mr. Wagner — I do not like to have my question disregarded so abruptly. The gentleman said that disposes of all the questions. I asked a question which I think is quite worthy of consideration, as to whether or not the Legislature should be restricted to passing uniform laws on this question. Does the gentleman from New York agree with me that it would make the act more just?

Mr. J. G. Saxe — Mr. Chairman, I certainly agree with the gentleman from New York, Mr. Wagner.

Mr. Wagner — I was sure you would.

Mr. J. G. Saxe — And I will say, Mr. Chairman, to the gentleman from New York, that Mr. T. F. Smith, from New York, introduced into the Convention amendments along the lines that Mr. Wagner has suggested; that those were taken up in the Committee on Suffrage and, after a very vigorous debate, they were killed on strictly party lines.

Mr. Wagner — The majority is as hopeless as ever, I take it.

Mr. J. G. Saxe — Mr. Chairman, I find that I have overlooked a question asked by Governor Sheehan as to the last line of this Proposed Amendment, the question on the day or days designated for registration. The intent of the framers of this amendment was that if the Legislature provided for more than one day of registration, men certainly must be absent on all the different days; and, while I do not know of any section of the State at the present time where there are not at least two days of registration, the Legislature next year might provide for one day of registration.

Mr. Marshall — "Several days."

Mr. J. G. Saxe — There might only be one.

Mr. Marshall — That would cover it, then.

Mr. J. G. Saxe — Mr. Marshall suggests it be changed to "several." We meant to meet the case that the Legislature might provide in some section of the State for one day.

Mr. Burkan — Are you in favor of limiting the benefits of this provision to Federal employees, commercial travelers and railroad men?

Mr. J. G. Saxe — I think I am.

Mr. Burkan — What about the actors, the stage carpenters, bill posters, theatrical managers, property men, musical directors, and stage people generally? All these people are engaged in traveling, because their employment requires it. Are you going to discriminate against them?

Mr. J. G. Saxe — If you refer to my personal vote, I think I am.

Mr. Burkan — Are they not entitled to it as well as commercial travelers or railroad men or Federal employees?

Mr. J. G. Saxe — I think I can answer that in this way: There are some very large classes of persons disfranchised and deprived of their vote because they cannot bear the great expense of coming home to register and coming home to vote. The big classes are those we have indicated.

Mr. Burkan — Did you give notice to the musical union that you wanted to bring up this question or to any of the theatrical organizations interested in this proposition?

Mr. J. G. Saxe — Mr. Chairman, I wish now to state that Mr. Steinbrink brought in a Proposed Amendment in favor of the commercial travelers, and the commercial travelers came here and were heard; that Mr. A. E. Smith brought in a Proposed Amendment in favor of the railroad men, and the railroad men came here and were heard, and that the other delegates whose names appear in the caption of this bill brought in amendments covering these three classes, and they were all heard, and the Committee on Suffrage, so far as I know, issued no summons or other legal form of process to other persons throughout the State.

Mr. Burkan — Are you opposed to hearing the complaint of the musical union and the theatrical union on this proposition? They represent organizations of one hundred thousand men.

Mr. J. G. Saxe — Mr. Chairman, I assume that if the gentleman or those bodies will make their request in due course to the Chairman of the Committee on Suffrage, the Chairman of the Committee on Suffrage will give it due and careful consideration.

Mr. Burkan — Are you in favor of extending this privilege to these people?

Mr. J. G. Saxe — Mr. Chairman, the Committee on Suffrage has made its report.

Mr. Burkan — I asked you whether you were in favor of extending this privilege to theatrical people who, because of their employment, cannot be home on registration day?

Mr. J. G. Saxe — Mr. Chairman, I have finished.

Mr. Olcott — I may be wrong about it and I may be convinced that I am wrong about it, but it does not appear to me that it is yet necessary to use the words "commercial traveler" in the Constitution any more than the words "members of the musical union", or "union of carpenters", or "white rats", or even "lawyers", who sometimes have to be away on registration day. I ask with entire respect and more for elucidation than to lend any special value to this discussion, why cannot there be in paragraph 4 of Article II of the Constitution, which I read as follows: "In cities and villages having five thousand inhabitants or more, according to the last preceding State enumeration of inhabitants, voters shall be registered upon personal application only;"—as the language of the present Constitution, and then add to that, "except when the Legislature may provide for the registration without personal appearance of citizens entitled to vote, but who shall have been unavoidably absent from the county in which they reside on all the days designated for registration."

Mr. Olcott — I therefore move that as a substitute for the amendment now pending.

Mr. Buxbaum — Is that not already provided for in my suggestion?

Mr. Olcott — I think, Mr. Buxbaum, perhaps it was, but the pride of authorship was upon me, and I had already written my draft. I would be perfectly in agreement with any form suggested. Some one has said that there would be a lot of railroadmen springing up. It would be easier to prove against them the contrary, if the contrary was the fact, but who in the world in a Constitutional Convention can tell who "commercial travelers" are, and who can say that if I wanted to be away playing golf or something else, I might not agree with my friend while on the golf course to sell some new patented ball, and become a commercial traveler for the purpose? I don't want to apply the *reductio ad absurdum* too far—but why not trust the Legislature to apply the word "may" instead of "shall", and leave the terms of definition general enough to be there fixed for any man or any body of men or any man who has some unavoidable necessity for being away on registration day?

Mr. Wiggins — I have just a word to say on this subject: It seems to me that the subject of the qualifications and registration of voters is made a part of the basic law for two reasons: One is

that we shall ascertain what shall be the test as to qualifications, and, having ascertained that, that we shall then put in the Constitution those safeguards necessary to protect the vote when it is cast on election day. Now, answering the question which Mr. Quigg raised as to whether there was any provision in the Constitution which prohibited the Legislature from now enacting laws which we seek to place in the Constitution, I say to him there is. It is in Section 4, which says that voters shall be registered upon personal application only, and then follows the qualification that in villages and cities having less than five thousand inhabitants, they shall not be required to apply in person for registration on the first day of registration.

Now, as to Mr. Parsons' suggestion as to the ten days and why this should not be made a part of Section 4, I think he is correct about it, and I think it ought to be made a part of Section 4. I introduced an amendment, in which there is no pride of authorship, but which seeks to accomplish the thing sought by this amendment, which, however, is much broader, and I made it a part of Section 4 for the very reason he raises in the objection which he made, and if made a part of Section 4, then that provision that you must be registered ten days in advance of the date of election will remain as it is without qualification and without the necessity of interpretation by the court.

Answering the question of Mr. Marshall, with respect to the qualifications which the Legislature would have the right or should have the right to make for the purpose of ascertaining those who are entitled to vote, if this is made a part of Section 4 and read in conjunction with the language of Section 4, Mr. Marshall will of course observe the first line which says, "Laws shall be made for ascertaining, by proper proofs, the citizens who shall be entitled to the right of suffrage —", now it seems to me that the question of the subject of registration of voters is a question of principle, and I agree with Judge Olcott and the other gentlemen who have spoken on this subject that we ought not to turn this body into a Legislature and begin to describe specific classes of citizens. We should prescribe, notwithstanding the criticism which my friends shall aim at it, we should provide that it be general — a man who is absent. Absence is the essence of this amendment. Any man who is absent on registration day. If he necessarily must be away on the days of registration; and that is what is intended — not one day — and then send in a little slip of paper saying, "Put me on the registration roll," and, as Judge Olcott says, we can trust the Legislature to surround it with the necessary safeguards. Why, my friends, talk about the great door that will be opened, and our failure to surround the subject of registration with the proper safeguards. It seems to me absurd.

Mr. Baldwin — I would like to ask if your idea would not be met by striking out “only” in Section 4, and inserting the words “in such manner as the Legislature shall provide,” so that the section shall read, “In cities and villages having 5,000 inhabitants or more, according to the last preceding State enumeration of inhabitants, voters shall be registered upon personal application” — striking out the word “only” and inserting “or in such manner as the Legislature shall provide.”

Mr. Wiggins — That is rather a fine distinction of the construction to be placed on the language. But I think, perhaps, giving it the thought I have as you have put it before me, quickly, I think, perhaps, the suggestion you make would accomplish the thing sought. I say that with reservations.

Mr. Marshall — Sought by whom?

Mr. Wiggins — Sought by me as one merely, Mr. Marshall, and by others who are interested in the subject of permitting those who are absent to register.

Mr. Marshall — It would seem to me that such an amendment would destroy our registration laws *in toto*.

Mr. Wiggins — On the subject of destroying our registration laws *in toto*, Mr. Marshall, look at that provision of the section which says that men may be placed upon the registration rolls without personal application on the first day of registration. Now I believe in it, and if you believe in it, you must subscribe to this statement that this is no more dangerous than that provision which permits villages of less than five thousand to place names upon the roll, and with the full knowledge that we both belong to that class of citizens who believe in giving the people in rural communities this opportunity, because of the fact that they are generally known to their neighbors — but if you fear this provision then you must of necessity fear that provision.

Mr. Wagner — I have a fear of the amendment proposed by Mr. Baldwin. Under that proposed measure, I suspect, if we had a Legislature next year as we had this year, there would be no personal registration except in the city of New York.

Mr. Wiggins — Take that up with Mr. Baldwin, and I have answered his question upon the subject as to qualifications. I would like to consider it further before subscribing to it, *in toto*. It seems to me, Mr. Chairman, and gentlemen of the Convention, that this is a matter of principle. It is based upon the fact that it is a great expense to these people who are absent of necessity to come back and register and return to their occupation and then come back again to vote. I do not believe it should apply to classes of citizens as here set forth, but, as a matter of principle,

I think those people who are absent on all the days of registration should have the privilege of being placed on the roll under such safeguards as the Legislature shall name.

Mr. Olcott — So as to bring this before the House before the possible rising of the committee and taking this matter up again, I move as a substitute for the amendment now pending, if such a motion be in order, to add, after the word "only" on line 10 of Section 4 of Article II, the words "except as hereinafter provided".

Mr. Buxbaum — I rise to a question of information. Is not the motion before the House the motion of Mr. Steinbrink, that we rise and ask leave to sit again?

The Chairman — Mr. Steinbrink did not make that motion. The motion pending is the motion of the gentleman from Kings.

Mr. Buxbaum — Then I was mistaken.

Mr. Olcott — I offer that as a substitute for the amendment now pending.

Mr. Wickersham — Mr. Chairman, I move that the committee do now arise, report progress and ask leave to sit again.

The Chairman — Mr. Wickersham moves that the committee do now arise, report progress and ask leave to sit again. Those in favor of the motion will signify by saying Aye, contrary No. The motion is carried.

(The President resumes the Chair.)

Mr. A. E. Smith — The Committee of the Whole asks leave to submit the following report.

The Secretary — The Convention resolved itself into the Committee of the Whole and proceeded to the consideration of General Orders, being Proposed Amendments entitled as follows: No. 738, introductory No. 214, General Order No. 3, by Mr. J. G. Saxe; No. 732, introductory No. 550, General Order No. 9, by Mr. Tanner; and No. 759, introductory No. 624, by Mr. Wickersham. Mr. Smith from the committee recommends that the said Proposed Amendments be placed at the foot of the Calendar.

The President — The question is on the report of the committee. All in favor of agreeing with the report will say Aye, contrary No. The report is agreed to. The amendments will go at the foot of the Calendar.

The Secretary — A further report. Also a Proposed Amendment, No. 742, General Order No. 18, introduced by Delegates Steinbrink, Nixon, Wiggins, A. E. Smith and Mann — Mr. Smith reported progress and asked leave to sit again.

The President — The question is on granting leave to the committee to sit again. Those in favor will say Aye, opposed No. The leave is granted.

Mr. Quigg — Mr. President, Mr. Mulry, of New York, has a serious illness in his family and is obliged to be absent to-day and may be to-morrow. I ask that he be excused.

The President — Mr. Quigg asks that Mr. Mulry be excused from the session to-morrow for the reasons stated. Those in favor will say Aye, contrary No. The leave is granted.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of the motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:30 p. m., the Convention adjourned, to meet at 10 a. m., Tuesday, July 27, 1915.

TUESDAY, JULY 27, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. D. J. Many, Jr.

The Rev. Mr. Many — Almighty God, Supreme Architect of the universe, without whom no man should begin any great or important undertaking, Thou whose law is holy, just and good, we invoke Thy blessing upon this body of men, met for an important purpose. May all their acts be with judicial fairness, with broad statesmanship, with kindly humanity; above all thought of personal advantage or party gain. May there come the great thought of man and his rights and his privileges; the thought of relief; the thought of strength; the thought of broader life; the thought of things fitting this great and noble State. So do Thou lead, so do Thou determine, that things may be approved in Thy sight. Through Jesus Christ we ask it. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? No amendments being proposed, the Journal stands approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from representatives of the city government and civic organizations and citizens of Binghamton, which will be referred to the Committee on Cities.

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the commissioner of records of the county of Kings, in response to a resolution of the Convention. The Chair does not recall from what committee that resolution came. The information contained in the communication relates to the business of the commissioner

of records of the county of Kings. Unless other suggestion is made, it will be referred to the Judiciary Committee.

Mr. Reeves — That should be referred to the Committee on County, Town and Village Officers. They have that matter in charge.

The President — The reference will be changed and made to the Committee on County, Town and Village Officers. Notices, motions and resolutions. The Secretary will call the roll by districts.

Mr. Franchot — I move that the Committee on Industrial Interests and Relations be discharged from further consideration of Proposed Amendment No. 725, Int. No. 131, for the purpose of amendment as follows, reprint and recommitment to that committee.

The President — Mr. Franchot moves that the Committee on Industrial Relations be discharged from consideration of the Proposed Amendment No. 725, that it be amended and recommitted and continue in its place on the calendar. Is there any objection? Without objection that order is made.

The President — Reports of standing committees.

Reports of select committees.

Unfinished business in general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The President — Three numbers having been moved, the Convention will go into Committee of the Whole and take up consideration of the calendar.

Mr. Deyo will take the Chair.

The Chairman — The Convention is in Committee of the Whole on General Orders. The Clerk will read a bill.

The Secretary — No. 88, General Order No. 12, by Mr. Leggett.

Mr. Leggett — When this Convention assembled, I do not know how it may have been with other members but I was impressed, if not with the solemnity, at least with the dignity and the seriousness of the occasion. I believe others were impressed the same way as myself. There seemed to be that atmosphere about the Convention. And when the oath was tendered to the members of the Convention, and particularly to the leading men, I may say, of the Convention, I was struck with the dignity and appropriateness of the words contained in Section 1 of Article XIII, which constitute the original oath of office:

"I do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of Delegate to this Convention according to the best of my ability."

But when it came to the following words of the oath: "And I do further solemnly swear that I have not directly or indirectly paid, offered or promised to pay, contributed, or offered or promised to contribute, any money or valuable thing as a consideration or reward for the giving or withholding a vote at the election at which I was elected to said office, and have not made any promise to influence the giving or withholding any such vote," it struck me as an anti-climax that the words contained in that part of the oath were undignified.

They were unworthy to be addressed to any man who ought to serve the State of New York; they are little short of an insult; an imputation to such men as have been elected to this Convention; and I then determined that I should offer the proposal to amend the Constitution, by cutting out that supplementary declaration, and that is the purport of the proposal that we are discussing at the present time. I tried to find the history of this particular clause in the Constitution, and after some difficulty this is what I found, or, rather, did not find. The original oath consisted of the support of the Constitution and so forth, and has been there for a great many years, away back. This particular part, and Sections 2, 3 and 4 following, were inserted at the suggestion of the Constitutional Commission of 1872 and 1873.

Sections 2, 3 and 4 were up for consideration in the Constitutional Convention of 1867, and received a great deal of attention. At that time the public mind was very much excited with the question of bribery of public officers, and particularly of the Legislature; and that matter was brought conspicuously before the Convention of 1867, and after a considerable debate, in which the majority, however, was very small, it was voted to incorporate Sections 2, 3 and 4, relating to bribery and the punishment thereof, in the Constitution; but no mention was made of these words in the official oath. They were never considered by the Constitutional Convention of 1867. Of course, as we all know, that Constitution was not accepted by the people; but later on, the Legislature having constituted the Constitutional Commission, that commission amongst other things recommended to the Legislature the passage of Sections 2, 3 and 4, on bribery, and also added these words to the official oath. Whence those words were derived, or whence the idea came that that would be a useful part of the Constitution, I have been unable to find out. So far as I can ascertain there is no record of the proceedings of the Constitutional Commission except a very small book, which contains a bare journal; and, so far as I know, there is no accessible means of knowing the reasons that actuated that commission, or that actuated the Legislature in submitting it to the people. In trying

to discover what reasons might have actuated the originators of this addition to the Constitution, it has occurred to me that the parties to whom this oath may be submitted may be divided into two classes, and I think only two classes.

That is to say, there are men who have not bribed their way into office. And the question occurs, of what use is it to tender to men of that class such an oath as this. On the other hand, there are those, we will suppose, who have bribed their way into office; and I ask the same question, of what use is it to tender this oath to men of that class? Does anybody expect, any sane, practical man,—that a man who has bought his way into office and comes up here to the bar of the Legislature, and finds that the only thing that stands to bar him from taking the office which he has bought is to deny that he purchased it, does anybody think that a man who has purchased his way into office will deny that he did it? It seems to me that any supposition like that is childlike; that, as addressed to practical men, it has no force. Well then if that be true, then the tendering of this oath to either class is absolutely nugatory; and I cannot but feel that any man who is worthy to serve the State of New York must feel himself distinctly humiliated by being asked to take such an oath as this. And it is largely and mainly for that reason that I have introduced this amendment. A man coming up here to whom that oath is tendered is put in a worse position than a criminal on trial in court. There he is presumed to be innocent until some proof is offered that he is guilty. Here he is presumed to be guilty until he clears himself, thus reversing the universal legal maxim. I hope that this will commend itself to the other members of the Convention as it has to me.

Mr. Cullinan — Do you consider that oath inconsistent with the declaration of principles as to party policies on a platform, before election?

Mr. Leggett — Well, that is an argument I was not going to make; but there is an argument in that, there is no question. In taking the oath itself, he declares that he has not made any promise to influence the giving or withholding of a vote. I think it is objectionable on that argument, but that was not the one I was going to make.

Mr. Quigg — Is it the fact that taking that oath and subsequent proof that it was false would be a ground for expulsion from a body of this character or a Legislature? That is, would it not be a commission of an offense in office?

Mr. Leggett — I should have to answer you on the spur of the moment. That is, it occurs to me now that it would be an offense before the taking of office, because he cannot obtain the office

without taking the oath. I am just speaking on the spur of the moment, Mr. Quigg. The discretion of the Legislature as to removing its members is almost unlimited, whether before or after or what it is. Now, isn't that true?

Mr. Quigg — I do not know, sir; but would not this give a real and tangible ground that could not be disputed? I agree with you about the nasty character of the oath. It is disgusting. We have to take it. But it has been proved that people have done these things. Now, if a man who had done it, in presenting himself at the bar to be sworn, takes that oath, does not he then commit an offense as a member of the Legislature, for which undoubtedly he could be expelled?

Mr. Leggett — Well, that is a matter perhaps right on the border line. But as I answered you before, that is preliminary to taking office; and I think the Legislature would be just as much justified in acting on the essential fact as the fact that he lied about it, and as we all know the proof to be the same —

Mr. Byrne — Mr. Leggett, is your only objection to this article that it may or does offend the dignity of those elected to office?

Mr. Leggett — That is my view, not only that it does offend the dignity of those elected, but of the body to which they are elected.

Mr. Byrne — That is your only reason for introducing this amendment?

Mr. Leggett — That was my main reason. Inasmuch as it has been suggested, I will just say a word on the other part of it. I have heard candidates for office who were asked pertinent questions as to their support of public measures, that were subject to public consideration, decline to answer on account of the latter part of this oath, saying that they could not make any promise in that regard without committing perjury when they took the oath of office, because it says, "I have not made any promise for the giving or withholding of a vote." How valuable that is I leave you gentlemen to determine, but I know it has been made an excuse for not answering questions with regard to burning public questions.

Mr. D. Nicoll — I take an entirely different view from that of the last speaker of the effect of taking this provision out of the Constitution. If it were done, it seems to me the Convention might just as well adjourn now, so far as the chance of any other thing being accepted by the people of the State of New York. To take out deliberately from the Constitution the oath which has been taken by every public officer for seventy years, as the third act of this Convention, it seems to me would be an act which would subject us to the severest criticism, if not to the derision of the State. Now, this oath came into the Constitution as the result of

the profound feeling existing against public corruption, whether by the purchase of votes or by the bribery of public officials, which was rife in this State during the reckless and extravagant period following the Civil War. So intense was the feeling that the members of the Constitutional Convention of 1867, who fashioned this oath, also prepared to put into the Constitution those provisions which we find there now directed against the crime of bribery. The Constitution of 1867 failed, but its work was taken over by the Commission of 1872. The thirty-two distinguished representatives of this State who constituted the Commission of 1872 framed this oath. It was sent by them to the Legislature. It was passed by two Legislatures, submitted to the people of the State of New York, carried by a majority of 200,000 votes, and has been in the Constitution ever since. It seems to me that it would be almost an act of madness for us to cut it out now.

Mr. Wickersham — I heartily agree with what the delegate from New York, Mr. Nicoll, has said regarding this subject. It has been in the Constitution ever since 1874; it was proposed in 1872. Looking in "Lincoln's Constitutional History," I find this very brief paragraph relating to its history. Mr. Lincoln says:

"The Convention of 1867 gave serious consideration to the subject of bribery, and as a part of its amendments on this subject proposed an addition to Section 1 of Article XIV relating to the use of corrupt or unlawful means by a candidate to promote his election, including a provision that a person should forfeit his office if convicted of taking a false official oath. Substantially the same section was proposed in the Commission, but after some discussion the committee concluded to divide the oath into two parts, for the reason as stated in the report submitted to the Legislature, that the 'article prescribed the oath to be taken by officers chosen by appointment, as well as those therein referred to who may be chosen by election. As the provision against bribery is intended to apply alike to the elector and the elected, it appeared to the Commission proper that the oath of office should be so framed that while the oath now required shall be taken as before, there shall be added thereto in the case of elected officers the new clause provided by the amendment.' An amendment proposed by Mr. Dudley provided, after stating the form of the oath, 'that any person who shall fail or refuse to take said oath or affirmation shall not be entitled to the office to which he shall have been elected or appointed; and any person who shall swear or affirm falsely in said oath or affirmation shall be removed from his office and shall be incompetent to hold any office of honor or profit in this State during the term of office to which he was elected or appointed nor until said disability shall be removed by the Legislature.' The middle clause, providing for the removal of an officer who should take a false oath, is

worth nothing now in view of the removal of the sheriff of Kings county by the Governor in March, 1902, for the reason that such sheriff had in fact taken a false oath of office. The sheriff contended that the Governor had no power to remove him except for a cause arising after his induction into office; but the removal was sustained by the Court of Appeals on the ground that the power of removal was purely executive and not subject to judicial review. If this clause had been adopted, the Governor's power would have been clear. He asserted the principle of the clause by his removal of the sheriff under the conditions indicated."

Now, Mr. Chairman, this provision for the oath is one of a series of clauses embodied in the thirteenth article — four sections in all. It has been in the Constitution for forty odd years, nearly fifty years. For this Convention to now strike it out because they might not have put it in, regarding it as legislative rather than constitutional in character, would be to commit an act of folly that I conceive this body will not be guilty of.

Mr. Parsons — Mr. Chairman, will the gentleman yield for a question? How much does this provision limit the right of a candidate to declare his position on matters of legislation?

Mr. Wickersham — Well, Mr. Chairman, it seems to me that the practical construction which has been given to this section by the unbroken use since its adoption is an answer to that question. No one for one moment would construe this to limit a candidate for political office so that he could not state what his political convictions were, his reason for advancing his candidacy before the people.

Mr. Parsons — May I ask the gentleman another question? Does this prohibit him from stating what he will do in regard to a specific instance, for instance, the removal of a candidate from office?

Mr. Brackett — I want to raise a point of order, not because this is of any significance at this moment, but because of a very great tendency, that the gentleman from New York, Mr. Parsons, cannot ask the gentleman from New York, Mr. Wickersham, to yield for the purpose of a question after he has sat down.

The Chairman — I think the point of order is well taken.

Mr. Wickersham — If it will meet the point of order of my friend, and give Mr. Parsons an opportunity to ask the question, I will remain standing.

Mr. Parsons — I wish to ask Mr. Wickersham a question, whether the present provision prevents a public official from declaring what he will do, for instance, in regard to the removal of an official over whom he shall have the power of removal if he is elected.

Mr. Wickersham — I will say, Mr. Chairman, that I never had so construed that article. The gentleman will remember that when Mr. Edward M. Shepard was running for Mayor of New York that question arose. Mr. Shepard construed this provision of the Constitution to prevent him from stating in advance what particular official act he would perform, which was the subject of consideration at the moment.

I think it was the general impression that Mr. Shepard was unduly technical in his construction of the limitation placed upon him by this section. I think that the word "promise" there must be read in connection with the earlier part of the section, and that it referred to offers or promises to contribute money or other valuable thing, and that it did not refer to those promises which a candidate makes to the people of the policy which he will adopt if he shall be elected to a given office, and I think the practical construction that has been placed upon this section through the years since it has been in the Constitution, negatives any such construction which, to my mind, is a strained construction as the gentleman suggests.

Mr. J. G. Saxe — Assume that this provision does exactly what Mr. Parsons suggests it does; do not you think it is a very meritorious provision, that there should be some provision in the Constitution against candidates having exacted from them a long line of promises which different organizations throughout the State throw at unsuspecting candidates when they are running for office?

Mr. Wickersham — Well, Mr. Chairman, it seems to me that the candidate, like the patient, must be his own physician, and every intelligent man ought to know the promises he should make and the promises that he should not make. I do not think the object of this clause was to restrict a candidate from stating what policy he intended to carry out if the people should elect him to the office for which he ran.

Mr. Byrne — It is regretted by many people that this body is formed largely of lawyers, and the reason for it becomes apparent at times like this.

This provision has been in the Constitution since 1874. I don't know and I never heard it suggested that there has been any abuse arising under it, that is, abuse by the courts.

It has rested there very quietly until this time, and the only suggestion now is that it is undignified, and every man in this body who will read understands exactly what it means now and just about how the courts will interpret it.

Don't you think we have talked long enough on this particular amendment?

Mr. Wickersham — Mr. Chairman, I move to strike out the enacting clause of this measure.

The Chairman — The pending motion, I think, Mr. Wickersham, is the motion by Mr. Leggett.

Mr. Wickersham — I move as a substitute, Mr. Chairman, to strike out the enacting clause.

The Chairman — It is moved as a substitute, or as an amendment to the motion made by the gentleman from Allegany, that the enacting clause of this measure be stricken out.

Mr. Parsons — May I correct a statement made by Senator Saxe, in which he implied that I thought that this provision prohibited a candidate from declaring the policy which he would adopt on a certain matter, if elected?

I do not think it does prohibit him from making such a declaration. I quite agree with Mr. Wickersham's interpretation of it. If I thought that it meant otherwise, then I should be in favor of amending it, because it seems to me that the people have a right to know what the attitude of a candidate is to be on a matter of policy which will confront him if elected.

Mr. Brackett — I only want to suggest to the Chair that this motion does not need to be a substitute. A motion to strike out the enacting clause must always take precedence over every other motion, and the motion is in order, notwithstanding the gentleman's motion that the bill be advanced.

Mr. Leggett — I am not surprised, in view of the former action of this Convention and the former sentiment that has been manifested at the argument that I have heard against this proposition. You may simmer them all down and they come to this, as suggested by the gentleman from New York: It has rested quietly in the Constitution for as many years as it has, forty-one. Nobody has ever heard of it doing either good or evil; and the argument, when you get it right down in a nutshell where you can put your finger on it, amounts to this: It has been there so many years, as an actual count, forty-one. Our leader has endeavored to stretch it out into almost fifty, and inadvertently, probably, Mr. Nicoll got it up to seventy-one; but there is the argument, that it has years and years behind it, and that is the whole argument.

The Chairman — The question is upon the motion of the gentleman from New York to strike out the enacting clause. I am advised by the desk that that motion is in order as an original motion, notwithstanding the motion made by Mr. Leggett. The question comes upon the motion of the gentleman from New York, to strike out the enacting clause. Those who are in favor of that motion say Aye, contrary No. The Ayes seem to have it, and the motion is carried, and the enacting clause is stricken out.

The Clerk will read a bill.

The Secretary — No. 749, General Order No. 22, by the Committee on Education.

Mr. Schurman — The first section of Article IX of the Constitution now reads as follows: "The Legislature shall provide for the maintenance and support of a system of free, common schools, wherein all the children of this State may be educated." The Committee on Education recommends that that be amended by inserting a sentence before it to read as follows: "The State shall continue its supervision and control of the education of children as a State function, and no powers in derogation thereof shall be conferred upon the local authorities of any civil division thereof." The Committee on Education gave numerous hearings on this subject, and gave to it very careful consideration, and embodied their notions in a number of tentative plans. They finally reached a proposition which they unanimously adopted, so that I present to you on behalf of that committee the unanimous report.

I want to add, however, that after the report was adopted, we thought that a verbal change might be made in the amendment, and that consisted in striking out the final word, "thereof", so that the end of the sentence would be, "any civil division." The reason for that verbal change is that the sentence as it now stands requiring "supervision and control" but as to "any civil division" must refer to a civil division of the State and cannot refer to anything else. The last "thereof" seems unnecessary and at a later stage of the proceedings I shall move that that be stricken out. As an explanation of the phraseology of the provision I shall address myself very briefly and shall not take much time on the subject-matter of the Proposed Amendment which deals with the control and regulation of the State-owned education, with the continuance of that control and regulation and with the proposal that it shall not be surrendered by the State. As to the first point, the matter of the control and supervision of education as a State function I want to say that it is and has been the uniform policy of the State and that it has behind it the consistent, uniform decisions of the courts of the State. We submit to you, therefore, a proposition which shall embody in the Constitution something which is now the established policy of the State, and something which the courts have confirmed.

Public education differs from most other functions which we associate with government. Many of them are, have been, can be delegated to municipalities or divisions of the State, but as long as New York has been a State the State has kept control and regulation of education in its own hands. That is not at all inconsistent with the established schools in localities which shall be maintained by the people of those localities; but the officers

charged with the operation of schools provided by the laws of the State are not local officers; they are not town, county or city officers, but they are State officers. And the laws enacted to establish in the divisions of the State schools therefore should not be considered as in any way local laws but State laws. That, I say, is the consistent and uniform policy of the State as it has been practiced for generations and as it has been sustained by the courts. It only remains for me to add — and I desire to speak with the utmost brevity in confirmation of that proposition — and perhaps you would be interested before I refer to New York in a reference to some other State.

Mr. Franchot — I should like to ask an explanation of the exact meaning in your mind of the words “in derogation thereof” and the particular word previous, the words in the provision to which it is contemplated the word “thereof” shall be related.

Mr. Schurman — I suppose the gentleman would not object to my answering his question in two orders. I pointed out that I was dealing with the subject of control and regulation; secondly, with the continuance of control and regulation, and thirdly, with the question of derogation, and I will keep his question in mind when I come to consider that third point. On the first point, namely, the question of supervision and control, I want to read you a few extracts from the constitutions of other states and I have selected those which have been recently amended so that you may have the latest word on the subject. Here for instance is an extract from the Constitution of the State of Idaho, amended in 1912:

“The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature of Idaho to establish and maintain a general, uniform and thorough system of public, free and common schools.

“Section 2, the general supervision of the State educational institutions and public school systems of the State of Idaho, shall be vested in a State board of education,” and again in the same Constitution showing the amount of control it has been wise to put into the Constitution: “The Legislature may require by law that every child of sufficient mental and physical ability shall attend the public school throughout the period between the ages of 6 and 18 years for a time equivalent to three years, unless educated by other means.”

Here is an extract from the Constitution of Iowa, amended in 1904:

"The educational interest of the state, including common schools and other educational institutions, shall be under the management of a board of education."

And again, "The Board of Education shall have full power and authority to legislate and make all needful rules and regulations in relation to common schools."

Another extract from the Constitution of the State of Michigan:

"The legislature shall continue a system of primary schools whereby every school district in the state shall provide for the education of its pupils without charge for tuition."

Here is one from the Constitution of New Mexico, amended in 1914:

"A uniform system of free public schools sufficient for the education of and open to all children of school age in the state shall be established and maintained."

Section 3: "Schools, colleges, universities and other educational institutions, provided for by this constitution, shall forever remain under the exclusive control of the state."

Another from the Constitution of the State of Wisconsin:

"Supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature shall direct."

You see then, Mr. Chairman, what the Committee on Education purposes is something which has already found its way in the constitutions of a good many other states of the Union. Furthermore I have said what we propose is something that has been confirmed by the courts of this and other states. In the case of the *People versus Bennett*, 54 Barb. 480: "Neither the officers created by the act of April 12, 1867, to consolidate the several school districts and parts of districts within the corporate limits of the Village of Saratoga Springs and to establish a free union school or schools therein, nor the trustees of school districts within that village are county, city, town or village officers within the meaning of the first and second branches of section 2 of article X of the state constitution."

One of the most recent cases, one of the most important cases, is that of *Gunnison versus the Board of Education*, 176 N. Y. The opinion in that case was written by the late Justice O'Brien, and was concurred in by Chief Justice Parker, Justices Bartlett, Gray, Cullen, Haight and Werner. The point at issue was whether in the city of New York the Board of Education or the city should be sued for payment of an educational bill. A bill for educational services. The court says: "It is apparent from the general drift of the argument that the learned counsel for the defendant is of the opinion that the employment of the teachers in the public

schools and the general conduct and management of the schools is a city function, in the same sense as it is in the case of the care of the streets or the employment of police and the payment of their salaries and compensation; but that view of the relations of the city to public education, if entertained, is an obvious mistake. The city cannot rent, build or buy a school house; it cannot employ or discharge a teacher; and has no power to contract with teachers with respect to their compensation. There is no contract or official relation expressed or implied between the teachers and the city. All this results from the settled policy of the state from an early date to divorce the business of public education from all other municipal interests or business and to take charge of it as a peculiar and separate function through agents of its own selection and immediately subject and responsive to its own control."

And later in the same decision the court says, in reply to the contention of the learned counsel for the defendant, that the situation had been changed in New York city by the adoption of a new charter. The report says: "If the State has departed from the settled policy that has prevailed since its organization, of keeping the work of public education and the control and management of its schools separate and distinct from all other municipal interests and business by the selection of its own agents, and clothing them with corporate powers to represent the schools, such as school districts and boards of education, and has devolved these powers and duties directly upon the city, we would naturally expect to find such a departure or notable change expressed in language so clear that no doubt could arise as to this change of policy. If the board cannot be sued for teachers' wages and the teacher must resort to a suit against the city, then surely the board must have sunk into a mere city agency, and it no longer has any use for independent corporate powers. Public education then becomes a city function, exposed to the taint of current municipal politics, and to any and every general mismanagement that may prevail in city departments."

And, again, "We have seen that the policy of this state for more than half a century has been to separate public education from all other municipal functions and entrust it to independent corporate agencies of its own creation, such as school districts and boards of education, with capacity to sue and be sued in all matters involved in the exercise of their corporate powers. We have seen that during this long period of time this court and all the courts of this state have accepted this rule and acted upon it, and not until now, and in this case, has any question been raised with respect to the right of a teacher to bring suit against the Board of Education to recover salary or wages."

Nothing, it seems to me, Mr. Chairman, could be more emphatic than the opinion of the court in that Gunnison case. I have other cases before me from our New York courts. Here, for instance, is the opinion of Mr. Justice Gaynor, in the case of Ridenour vs. the Board of Education, 15 Misc. 418. "He is an employee," says Mr. Justice Gaynor, "of the Board of Education. It is not a part of the corporation of the city of Brooklyn, but is itself a local school corporation, like every board of school district trustees throughout the State, and is, like every such board, an integral part of the general school system of the State. It is a state and not a city agency, doing state and not city work and functions. Education is not city, village, county, or town business. It is a matter belonging to the State government."

I have before me, Mr. Chairman, citations from the courts of other states, but I will not take up the time of the Convention in reading them, because I think that I have already sufficiently established my position that the supervision and control of the education of the children is a state function.

Mr. C. A. Webber — I understand that there was considerable difficulty experienced in the committee in the framing of the language of this amendment. May I ask, was it not the purpose in the selection of this special language to avoid any possible implication that the State might or should interfere in any way with private schools?

Mr. Schurman — I will answer that question now. The committee provides that the supervision and control of the education of the children shall be continued. Now, Mr. Chairman, the gentleman from New York has called attention to the fact that we have in the State of New York not only a system of public schools, but also a large number of private schools which are co-operating with the State, aiding it in the discharge of this most important function, schools which have won for themselves an excellent standing and reputation amongst us. The committee was very desirous in this report, in this recommendation, that there should be no phrase or word that suggested or would suggest any change in the present status in regard to those schools, and the committee feels that they have, after very much and long wrestling with the problem, solved that difficult point by the phraseology which they have used: "The state shall continue its supervision and control of the education of children as a state function." We ask for no change. We are for the *status quo*. The fact is that not only in connection with public schools, but in connection with private schools, the State of New York exercises a measure of supervision and control. The amount of supervision and control is not the same in both cases, but supervision and control exist in all cases.

For instance, the State requires that all children shall go to school for a certain period of time. The State also requires that all schools, private or public, shall be so organized and equipped that they shall give the minimum of instruction required by the State, satisfy the standards which the State lays down. I may say to the gentleman from New York that the point which he raised was very thoroughly threshed out in the committee. It cost us a great many days' labor and, in fact, very great efforts to formulate this phraseology, but we were of the opinion that we had finally reached language which satisfied all the interests of the State, and the form in which the resolution was submitted to this Convention is a form which, as I say, commanded the unanimous support of the committee.

In the third place, the committee's proposed recommendation deals with the subject of possible delegation of power to local authorities. There must be, in connection with the school system of the State, a large delegation of powers to local bodies. It is a State system of education, but the schools are local schools and are maintained by local authorities, but the point is that the State can exercise even over the local authorities a certain amount of regulation and control. Here, for instance, is a very interesting case from the courts of Kansas, the *State v. Freeman*, 61 Kan. 90. "This is a proceeding to compel the county commissioners of Elk county to carry out the provisions of chapter 189 of the Laws of 1899, entitled, 'An act to establish a high school at Howard, Elk county, Kansas.' Two of the commissioners declined to appoint a board of trustees as the act required, on the alleged ground that it is an unconstitutional interference with the right of local self-government. The contention made in their behalf is that the county cannot be compelled to build and maintain a high school without the consent of those who are required to pay for it, and that the Legislature exceeded its power when it attempted to impose such a task and burden upon them. No express prohibition of such legislation is called to our attention, and no inherent or fundamental right implied in the Constitution, that we know of, is violated." I am reading from the opinion of the court. "The matter of education is one of public interest which concerns all the people of the State, and is therefore subject to the control of the Legislature. Municipalities and political organizations are the creations of State authority, and are all within legislative control. While education is a matter of State interest and public concern, the high school being especially beneficial to the people of the community in which it is established, the burden of maintaining it may be rightfully cast upon them. It is conceded that the Legislature has full power to compel local organizations of the

State to maintain common schools, and, as schools of a higher grade are authorized by the Constitution, no reason is seen why such organizations may not be compelled to maintain high schools."

That is to say, while the education of children is a State function, under supervision and control of the State, the burden of maintaining the schools falls, in the main, upon the localities, but the State has the right to see that the localities provide for the education of children as laid down in the educational laws of the State. And, Mr. Chairman, in our own State, in a city not very far from this in which we are now met, the school authorities once refused, when the autumn came around, to open the schools and the Superintendent of Public Instruction stepped in, appointed a temporary superintendent, temporary teachers, janitors and attendance officers, and opened and operated the schools and continued until the local authorities acknowledged they were ready to perform their duty, and in that case, *Hutchinson v. Skinner*, 21 Misc. 729, Mr. Justice Chester held that the State Superintendent of Public Instruction was within his legal rights in so acting.

What is proposed by the Committee on Education, then, Mr. Chairman, is that the present arrangement under which localities, in the main, maintain their own schools, subject, however, to the control and supervision of the State, shall remain unchanged. There is much talk in this Convention of home rule. I myself hope that this Convention will be able to work out a plan of home rule which will be reasonably satisfactory to all the people of the State. But, in any such system of home rule, it is important to remember that education occupies a place of its own, and the Committee on Education recommends in this Proposed Constitutional Amendment that "no powers in derogation thereof," that is, of the supervision and control, "shall be conferred upon the local authorities of any civil division thereof."

Mr. Franchot — I understand that all matters referring to education heretofore,—all laws enacted heretofore by special bills under the provisions of Article XII as it now stands, have been invariably submitted to the Mayor, or the Mayor and Common Council, as the case may be, for their approval. Is it the intent of this provision that, assuming that Article XII should remain as it is, there should be no necessity of such submission to the local authorities for their approval of special city laws dealing with education?

Mr. Schurman — Mr. Chairman, I do not exactly see the bearing of that question on the proposal before us. We say: "The State shall continue its supervision and control of the education of children as a State function and no powers in derogation

thereof shall be conferred upon the local authorities of any civil division thereof."

Mr. Franchot — Let me explain. Are you aware of the fact that it has been the invariable custom in the case of special bills enacted with respect to education in the city of New York, to submit such bills to the local authorities for their action by way of veto, and that on some occasions I believe bills have been passed over the local veto, under the provision for the suspensive veto now contained in Article XII?

Mr. Schurman — I should think that was a detail which had no direct connection with the proposition we are now considering. We propose to leave the act as it is. We want regulation; we want that measure of supervision and control which the State now exercises to remain vested in the State. We are opposed to ever surrendering one iota of it. We have not favored, however, asking that it shall be increased.

Mr. Unger — If by any mischance this Convention should give New York city its full share of home rule, would this provision prevent us from passing upon the salaries of our teachers?

Mr. Schurman — I do not see that it would, Mr. Unger, at all.

Mr. Unger — I wanted to make certain on that.

Mr. Clinton — Mr. Schurman, I understand that in considering the language to be used, you were very particular in using the expression, "The State shall continue". Is it not your idea and that of the committee that that does not change the policy of the State at all, but simply continues that "no powers in derogation thereof shall be conferred upon the local authorities", etc.?

Mr. Schurman — I am very much obliged to Mr. Clinton for asking that question, because it gives me the opportunity of repeating what I said earlier in my remarks, and what some of the gentlemen perhaps did not hear or have overlooked. That was precisely the object of the committee, to leave everything exactly as it is, to constitutionalize existing practice, without any variation, that practice already having been confirmed by the courts.

Mr. Wagner — I would like to ask the opinion of the delegate as to what is the meaning of the word "control" in the education of children? Perhaps I can make what I would like to know clearer. Does that include the administration of a local department of administration, so far as its finances are concerned, the question of the salary of teachers, the length of term of the superintendents, the standard of qualification of the school teachers, and the salaries which they shall receive — is not that all included under the word "control"?

Mr. Schurman — The State exercises its present supervision and control through boards of education. There are fifty-four

cities in the State, and in thirty-nine of them those boards of education have exclusive control, independently of the municipal authorities, of educational affairs, such as the employment of teachers, the fixing of salaries, the payment of running expenses, and so on.

Mr. Wagner — Mr. Chairman, as I understand it, the local authorities in the City of New York still have — that is, the Board of Estimate and Apportionment — the power of making appropriations for the Department of Education, and in that they have the power to withhold appropriations which they deem are undesirable or unnecessary.

Mr. Schurman — In the City of New York, there is a three-mill tax for the schools. At the time of its institution, it was sufficient to provide for the work, but owing to the growth of the city and the increase in expenses, that tax has become insufficient, and the supplemental amount required by the Board of Education has to be voted by the city financial authorities, the Board of Estimate and Apportionment. If, however, the law was amended so that the three-mill tax were made a four-mill tax, the probabilities are that the Board of Education would have all the money it needed to run the schools and would be in the same position it was when the three-mill tax was instituted, and in that event it would enjoy an independence of the Board of Estimate and Apportionment, which at the present time it does not possess.

Mr. Wagner — Mr. Chairman, that is just what I am trying to bring out. Is it your intent in this provision to take away from the local authority all power and control over our department of education? Take, for instance, in the city of New York, including the financial administration of the department.

Mr. Schurman — It would take away from the municipal authorities of New York only such powers as might be in derogation of that measure of supervision and control which the State now possesses.

Mr. Wagner — That is the point, Mr. Chairman, that I am trying to find out, what is meant by the word "control". If the word "control" includes all control over the finances involved in the administration of the Department of Education, then no future Legislature can pass any laws giving the local authorities any supervision over the finances, and that is one of the strongest arguments made on behalf of home rule from New York to the Committee of which Mayor Low is Chairman, that, so far as the finances were concerned, that it was right and proper that the local authorities should control that; and this provision, now proposed, it seems to me, would defeat the object sought by the local authorities.

Mr. Low — It seems to me, Mr. Chairman, that this Proposed Amendment, which we are now discussing, No. 749, must be read in connection with the Proposed Amendment No. 757, from the same committee.

Mr. Wickersham — Mr. Chairman, I rise to a point of order. It is impossible for the delegates in this part of the room to hear Delegate Low, and I ask that order be preserved.

The Chairman — I understand that the gentleman asked the gentleman from Tompkins, Mr. Schurman, to give way that he might ask a question.

Mr. Schurman — Yes, Mr. Chairman, and I am very glad to accept the suggestion of the gentleman from New York, the Chairman of the Cities Committee, which was to the effect that the other Proposed Amendment submitted to the Convention by the Committee on Education has a very distinct bearing on the question which has just been raised by Mr. Wagner, and therefore, Mr. Low suggested, I take it, that it would be instructive to the Committee of the Whole, if that second amendment was now read, and I desire to concur in that suggestion.

Mr. Low — Mr. Chairman, I would like to read the second amendment and make a short explanation of the problem involved, and then ask Mr. Schurman a question, if I may?

The second amendment reads in this way:

“Every city shall have a board of education. It shall be a body politic and corporate. It shall, subject to general laws, determine the amount and direct and control the expenditure of all funds to be used for public education within its jurisdiction. Such funds as are raised by local taxation shall be raised in the same manner as the general city taxes, but shall be levied and the amounts extended on the roll as a separate school tax.”

Now, Mr. Chairman, it is true that the State of New York, in the main, has looked upon education as a public function, but its practice has not been uniform. Prior to the incorporation of White Plains and Saratoga Springs as cities by the last Legislature, there were fifty-four cities in the State of New York. In thirty-nine of those cities, the board of education controlled the subject completely, even fixing the amount to be raised by taxation. In nine of them the financial or political officers of the city determined the amount to be raised by taxation. In four, of which the city of New York is one, the system was mixed; that is to say, the board of education had control of a part of the funds, and the financial or political officers of the city had a certain power over the rest of the funds.

Now, sir, all over the State of New York, the controversy is going on in the cities as to whether the schools should and ought

to be conducted by the boards of education, or whether the political, financial officers of the city, by reason of their responsibility for financial expenditure, ought to be able to say, not only how much money shall be used or appropriated for the schools, but also what salaries should be paid, and to some extent carry the power as to policies which financial control gives, into the domain of the board of education.

I think the Convention should face that question squarely and say whether the financial control of cities is so important that the financial officers shall fix the amount of money to be spent by the schools and indirectly, at any rate, say how it shall be spent and what it shall be spent for, or whether the boards of education shall be charged with that duty; and if the boards of education are to be charged with that duty, it seems to me that we must go to the full extreme of Proposed Amendment No. 757, because as long as the responsibility for the schools is divided, there is no possibility of fixing the responsibility as between the inhabitants of the city and those who conduct its schools.

At the present time, wherever the divided system exists, the board of education charges the board of estimate with not giving money enough to the schools. The boards of estimate complain that the boards of education do not use the money in the way in which it is intended to be used; and, therefore, not in one city only, but in a number of cities, the conflict is going on, and it is the duty of this Convention, I think, to solve it; and it is the intention, as I understand it, of these two amendments to solve it in favor of control by the State.

Now, I understand, Mr. Schurman, that if these two amendments were to be adopted and become a part of the Constitution, there is nothing in them that would prevent the Legislature from devolving upon the boards of education, which are local, full and complete authority over the schools by general laws.

The particular question that I want to ask Mr. Schurman is this: Is it not the policy, not only of New York State, but broadly of every State in the Union? There may be exceptions, but I know of none where the State has failed to keep all the control that was necessary of its public school system, but many States, in doing that, have provided that the Legislature shall pass no special laws affecting localities in regard to their schools. So that each locality, through its board of education, carries out the general policy of the State.

I perceive in this Proposed Amendment No. 757, it is stated that the board of education shall, subject to general laws, determine the amount, and so forth, to be used for the schools.

What I want to ask the Chairman of the Committee on Education is this: Whether he thinks it is desirable, in addition to that

provision, to say, especially, that the Legislature shall pass no special law on this subject relating to a particular city.

Mr. Schurman — The inquiry and the remarks of Mr. Low have been very instructive and he has called attention to the other Proposed Amendment from the Committee on Education, dealing with the boards of education, an amendment which, probably, answers a good many questions that have been raised here. I think that I may say that the opinion of the Committee on Education on the subject of general laws entirely covered the point raised by Mr. Low, and that it has endeavored to protect the localities from special and local legislation.

If there is a need of any further consideration of that question, of course, the Committee on Education will be very glad to take it up, but I think, gentlemen, you will see that the proposition which is now before you, No. 749: "*The state shall continue its supervision and control of the education of children as a state function and no powers in derogation thereof shall be conferred upon the local authorities of any civil division thereof.*" The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of the state may be educated", that the proposed amendment is not involved and that it does not raise any difficulties, because it merely writes into the Constitution the existing practice of the State as confirmed by the courts. The various difficulties and questions which have been raised will, it seems to me, come up in connection with other amendments, and must be met there.

Mr. Burkan — I would like to ask Mr. Schurman whether he knows of an instance where the Legislature has delegated the power to local authorities involving the supervision and control of the education of children?

From reading this provision, it seems that the purpose is to prevent the Legislature from conferring upon local authorities any supervision or control of the education of children. Now, can you cite an instance where that has been done by the Legislature?

Mr. Schurman — I state, Mr. Chairman, in reply to the gentleman's question, that the last part of this Proposed Amendment seemed important in view of the existing situation in the State. One of the greatest problems before this Convention is the home rule problem, and in view of that problem it seems desirable to make clear what the attitude of the State should be toward the question of education. We thought, therefore, that it was desirable, not because we are aware of evils in the past, but because, owing to this new situation, which involves new questions, conditions of that kind might arise in the future; and the Committee

thought that provision should be made by the Constitution, that whatever amount of supervision and control the State now exercises, it should retain, and no grant in derogation thereof should be made to local authorities.

Mr. Burkan — In other words, it is to be anticipatory of any such a provision in home rule provisions.

Mr. Schurman — That was the main idea in the minds of the committee.

Mr. Wiggins — In connection with this discussion which has arisen over the interpretation to be given to the word "control," as Dr. Schurman has said, this entire subject must be considered in conjunction with the subject of home rule; and I have no doubt whatever that the committee has anticipated, by reasons of the discussions that have taken place before the Cities Committee, what the interpretation may be that is given by the courts to the language which shall be used in any proposed home rule bill which may be introduced before this Convention.

Now, as an example, if you will permit me to make this observation?

Suppose, as an example, that there should be introduced before this Convention a proposed home rule bill which would use these words: "Every city shall have the exclusive power to manage, regulate and control its own property, and local affairs." Where would you be? There would be presented, of course, to the court, the question, Is education a local affair?

That I call to your attention simply because it was one of the subjects which was discussed before the Cities Committee by the various speakers which appeared before them. They all had peculiar notions. As an example, they even desired that the cities of the State should constitute themselves into a board of public utilities and pass on all public utilities. And they even further raised the question, if that committee were to give to local cities, or to cities, or if the Convention were to give to cities the right to manage and control their local affairs,— as to whether the Legislature would have the right to pass a special bill for the city of New York, permitting it to go up into the country and increase its water supply. It has nothing to do with this question and I don't mean to go off into the discussion of home rule except to illustrate what I assume the committee must have had in mind, at the time, if there is employed in any home rule bill, words which mean, of course, that there is granted home rule, the power to manage and control its local affairs, would education be considered a local affair; and I assume, of course, that the Committee on Education anticipating that, has decided to place this provision in the Constitution, so the courts cannot construe it as any other than a State affair; because I can conceive of no greater step backward than that

the State of New York should surrender its sovereign right and control over the education of the children of the State; and I assume that this bill was designed for the purpose of perpetuating that which has been in the Constitution and which has been construed to be, by the courts, a State function.

Mr. Schurman — Mr. Chairman, Mr. Wiggins is absolutely right in the answer he gives to the question.

Mr. Quigg — If, as you say, this proposition is anticipatory to the proposition to be presented on home rule by the Cities Committee, would it not be in the interest of intelligent action here to postpone its further consideration until that committee has reported and we see what we are voting on in its entirety?

Mr. Schurman — Mr. Chairman, the question of Mr. Quigg seems to be a very natural one, but the conclusion which he suggests is not the one I would give. I have not said the sole motive or reason for the last part of this proposed Constitutional Amendment was the fact that there might be a grant of home rule made to the cities by the State; I said that was a leading consideration with the committee, and it was; but this committee, Mr. Chairman, is a very conservative committee, so far as this report goes. It is asking only that the *status quo* in educational matters be perpetuated by solid, constitutional enactment. Suppose no grant of home rule should be made — a supposition which I myself hesitate to make, because it would be in my opinion such a disaster — nevertheless, we should still insist that the last clause of this sentence was a proper and desirable clause to have in the Constitution. And suppose you are to discuss and decide upon a measure of home rule? We still insist that the logical price of that plan is the settlement of the nature of education as a State function.

Mr. Wickersham — I think it is obvious that this question is one which will call for very careful consideration by all the delegates, and I move that further discussion of that question be discontinued and that when the committee rises it report progress and ask leave to sit again on the question.

The Chairman — You have heard the motion of the gentleman from New York. Those in favor of that motion will manifest by saying Aye, contrary no. It is carried.

The Clerk will read the Calendar.

The Secretary — No. 756, General Order No. 28, by the Committee on Taxation.

Mr. M. Saxe — Mr. Chairman, the proposal is moved, but at this time only for the purpose of making a preliminary statement.

Mr. Chairman, in view of the fact that the terms of this article are a new feature in the Constitution, and in view of the breadth of the subject, I desire merely at this time to make a statement as

to the purposes in mind — just what we seek to accomplish, and the reasons therefor. I will then ask that when the committee rises, it report progress and that we have leave to sit again on this proposal. The State of New York has been exceedingly fortunate in that it has had no restrictive constitutional provision relative to the subject of taxation. Because of that, we have been able to get along in tax matters very happily. But in the development of the modern systems of taxation, we find that the principle of centralization of administration is exceedingly necessary and vital. Now, while I said that there was no tax provision in the Constitution, there is, however, a provision which is a serious obstruction to the development of any proper system of tax administration. I refer to Section 2 of Article X, the so-called home rule provision. That section refers to local officers, city, county, town and village officers, and says nothing about taxation, but the fact is that the local assessor is a local officer and is protected by that section of the Constitution, and the function which he exercises, to wit, the function of assessing property, cannot be taken away from him by the creation of some other officer to perform that duty.

We were squarely against that proposition when the special franchise act was passed. You will remember what was done was to take the assessment of special franchises which were called real estate by the statute, and place it in the State Board of Tax Commissioners for assessment. The question of the constitutionality of the act was raised at once, because, they said, you have made the special franchise real estate, and you are taking away from the local assessor the exercise of that function which he had before the home rule provision was put into the Constitution, and therefore you are exercising an unconstitutional power. The answer the courts made to that was that the special franchise was a new kind of real estate which was not in existence as such at the time of the adoption of the home rule provision, and therefore the local assessor never exercised the power of assessing that kind of property, therefore nothing was taken away from him, and it was perfectly constitutional to lodge the power of the assessment of special franchises in a State authority, to wit, the State Board of Tax Commissioners.

Well, as things went on, the counties in this State saw the advantage of centralization, and last year the counties of Westchester and Nassau sought and procured bills for their respective counties for the purpose of centralizing the administration of the assessment and collection of taxes in those counties, and what they did was to do away with the village assessor and the village collector, and put the functions of those village officers in the town officers,

because the village being within the town — they were doing away with multifariousness of officers and of functions by having one set of men do it for the two tax districts. The question of the constitutionality of that act was at once raised, and only recently, I think last month, the Court of Appeals decided that the Westchester county act was unconstitutional because the Legislature could not take away from the village assessor functions to assess property locally. They could not take away from the village collector the function of collecting taxes locally.

So you see, at the very start of the idea of the centralization of assessment, we are blocked in this State by the provisions of Section 2 of Article X. Hence the underlying purpose of the article reported by the Committee on Taxation is to open up the home rule provision so as to at least permit of the centralization idea in counties so far as the assessment of real estate is concerned.

Now with respect to the assessment of personal property we have an entirely different condition, because in those days, away back in the early history of the State, when the assessor really assessed personal property, personal property was of such a nature that he could see it — that he himself could deal with it and understand its value and particularly its value in the community where he exercised his function. But now the characteristics of personal property have very largely changed. Personal property to-day, that is, the greater mass of it, exists in an intangible form rather than in a tangible form, and the local assessor is practically incapacitated from assessing personal property as it ought to be assessed. Then, too, there is no question but that the general property tax, so far as personal property is concerned, is an unworkable tax. It has been repeatedly condemned by all students of taxation as being impracticable. Therefore, if it is the purpose and desire of the people of the State to develop some substitute for the general personal property tax, why, we must clear the way in order to have a proper system of administration; for the very same reason that was urged at the time of the passage of the special franchise act and for those reasons which were pointed out with approval by the courts that passed upon that act sustaining its constitutionality. It was pointed out that the local assessor was incapable of properly valuing a special franchise particularly where it ran through a number of tax districts, and its value in order to be determined in one district ought to be considered as a whole, and, without co-operation of the assessors in the different tax districts, there was no practical way of considering the special franchise as a whole for the purpose of assessment.

So, too, is the case with respect to the taxation of personal property to-day, and that is the reason why it is advisable to make it

possible for the Legislature to develop new methods for reaching, particularly, intangible personal property. Now, it may be said that that could be done as was done in the case of the secured debts law: The Legislature could really take away the assessment of certain classes of personal property by making that property pay a certain rate or tax to the State and exempting the property in consideration thereof from local taxation. The secured debts law is a clear illustration of that phase of taxation. There you had assessment and taxation of bonds and other secured debts exempted from local taxation in perpetuity in consideration of a small rate paid to the State. Stop and think a moment, gentlemen, of the effect of that. In other words, it is drying up the source of taxation for local purposes. And, there is nothing in the present Constitution to prevent the extension of that principle. The State, if it wanted to, could to-day go to work and take all classes of property, and, in consideration of a small flat rate to be paid to the State, exempt the property from local taxation, and where would your local community be so far as raising revenue is concerned? Of course, that is an extreme illustration. It is hardly conceivable that a legislature made up of representatives from all parts of the State would do that sort of thing, but there is the possibility of it, and when the State requires funds, it naturally reaches out its strong right arm to get them wherever it can, and therefore you have the secured debts law as an illustration of that very bad principle of exempting property locally in order to secure State revenue, exempting that property from taxation in perpetuity and drying up the sources of local revenue. Therefore, if we leave open the method with respect to the taxation of personal property, we can devise methods for reaching it without taking that round-about course through the vicious principle of exempting property locally in order to reach it.

Mr. Parsons — Would the adoption of this provision prevent the passage of a secured debts law?

Mr. M. Saxe — Certainly not, but it would not be necessary to resort to that sort of a method.

Mr. Parsons — Would it prevent the passage of a secured debts law in which the revenue could go to the State and the localities could not tax the objects which were the subject of the secured debts law?

Mr. M. Saxe — Not at all. It is my opinion that the power of the State to tax is plenary; that it could, in other words, reach all of the revenue of the State and take it to itself. Taxation is a State function. The State could rob the locality of all its revenue if the State saw fit. Of course, it would be a ridiculous thing to do, and, perhaps, we ought to put something into the Constitution that absolutely prohibits that, as some communities have done by

statute, and which we will probably come to in this State, separating your sources of local and State revenue — certain things taxed for State purposes and other things taxed for local purposes — and then you have no conflict between the locality and the State.

Mr. Cullinan — As he is apparently about to close, I wish before he does so he would discuss section No. 4, if he will, from the standpoint of that committee.

Mr. M. Saxe — Well, Mr. Chairman, I had not intended reaching that section to-day at all. I was merely attempting an outline statement. If the gentleman will bear with me, we will take the others up seriatim. It will provoke a very long debate, entirely by itself, and will not concern the underlying principles involved in the rest of the article, and I now will merely outline the article.

Mr. Franchot — Mr. Chairman, in spite of that, because it is of interest to the Cities Committee, I should like to ask you, Mr. Saxe, with regard to Section 2: Is not the intent and meaning of that section, is it that special laws applying to communities like cities shall be prohibited? That is, special laws prescribing how taxable subjects shall be assessed and providing for officers for assessing and collecting taxes?

Mr. M. Saxe — In answer to that I will say that the term "general law" has been defined by the courts to include the law which, general in its language, is practically specific in its purpose.

Mr. Franchot — I note that the first sentence is different from the second; that, in the first sentence of Section 2, "the Legislature shall by laws general in their operation" — it is required, whereas in the second sentence of the section the legislation may be either by general or special law.

Mr. M. Saxe — Will the gentleman read the sentences he refers to so as to leave no opportunity for confusion?

Mr. Franchot — Section 2, the first sentence provides that taxes shall be imposed by general laws and for public purposes only, and the next sentence reads, "The Legislature shall prescribe how taxable subjects shall be assessed, and provide for officers to execute laws relating to the assessment and collection of taxes." Now, that, as I understand it, absolutely precludes local control of those matters except in so far as the Legislature shall delegate and that such delegation may be by special law as well as by general law. Am I correct?

Mr. M. Saxe — Well, you mean, if I understand your question, that the imposition of taxes can be only by general laws, and that the prescription of taxable subjects and the provisions for officers to execute laws relating to the assessment and collection of taxes may be specific.

Mr. Franchot — May be by special law under this provision. I wanted to ask what the intent of your committee was.

Mr. M. Saxe — That depends on the language of the statute. If the statute, which prescribes the taxable subjects and provides officers to execute it, is at the same time one imposing taxes, it will have to be by general law. If it shall be merely an act which does not impose any tax, it may be by special law. Does that answer the question?

Mr. Franchot — I just wanted that.

Mr. M. Saxe — Now, the other important feature of this article is one which relates to exemption. There is no question that the power of exemption as heretofore exercised by the Legislature has been grossly abused. That has been due to a very human consideration. It is a very popular thing for a member of the Legislature to introduce some exemption measure for some worthy cause, and it is a very difficult thing to obtain opposition to that sort of a measure. Now, realizing the great growth of exempted property in this State, the Committee on Taxation deemed it wise to suggest to this Convention that something should be put into the Constitution to impede the growth of exemption from taxation. There were two public hearings on that proposition. The matter was very carefully considered, because very large interests were involved. Very serious questions of State policy were involved. For years the State had proceeded upon a certain line of policy with respect to certain institutions, and after due consideration and deliberation, the committee deemed it wise not to do anything to change that policy directly by the article on taxation, but to limit the power of the Legislature in the future and to indicate very clearly to the Legislature its powers of modification of exemptions and revocation of those granted and then to let the Legislature work out this problem of exemption gradually, and not to attempt to do it by some one fell swoop, such as a constitutional provision, as was suggested, to practically abolish all exemptions. There is a great deal to be said on both sides of this question, and I am of the opinion that we shall have a considerable debate on that phase of the article alone. Suffice it to say for the present that the committee thought it was fair and equitable and an intelligent treatment of the proposition to provide, so far as the future is concerned, that, in order to obtain an exemption from taxation, a two-thirds affirmative vote of the members elected to each House would be necessary.

Mr. Sargent — In regard to the language in Section 2 of the proposed article, which reads as follows: "Taxes shall be imposed by general laws and for public purposes only. The legislature shall prescribe how taxable subjects shall be assessed and provide for officers to execute laws relating to the assessment and collection of taxes," . . . Now, what I would like to know

is whether the committee, by the use of that language, intended to call upon the Legislature, if this goes into the Constitution, to provide for new officers to see to the collection and assessment of taxes, in so far as those taxes are now collected by various State officials, such as the Secretary of State or the Comptroller?

Mr. M. Saxe — Mr. Chairman, it is very confusing in arguing these propositions when one is directing his attention to one section, to have a question put with respect to another. I was discussing the subject of exemption and the gentleman comes out with a question with respect to the language of Section 2 of this article, which relates to an entirely different subject. However, I will answer at this time, but in the future, I am going to ask the gentlemen to confine their questions to the particular sections that we are discussing, because, as I said before, this is simply a preliminary statement and when we come to debate, section by section, I shall be prepared as best I can to answer questions with respect to specific sentences. In answer to the gentleman's question, I will say that the main purpose of the language to which he refers in Section 2, is so as to get around the home rule provision of Section 2 of Article X. There is no intent here by this section to take the functions of assessment or collection from one officer and put them in the hands of another. That is a matter under this article which is left entirely with the Legislature just as it is now, under the Constitution, except in so far as the local assessment of property is concerned. The Legislature's hands are tied in that respect. We are seeking by this article to untie the hands of the Legislature in that respect, with the modification that we are tying them by limiting them to county lines; in other words, they may be able to develop county systems which they cannot do under the present Constitution, but the Legislature cannot go beyond that. That is so far as the assessment of real property is concerned. So far as the assessment of personal property is concerned, it is left entirely to the Legislature to work out such methods of taxation with respect to that class of property as it sees fit, unhampered by the so-called home rule provision.

Now, Mr. Chairman, I have in a very general way pointed out what we have had in mind in the Committee on Taxation by the production of this article. The language in part is exceedingly technical for the reason that if it becomes part of the fundamental law and goes to the courts for construction and interpretation, we ought to have that sort of language with which the courts are familiar and which they have interpreted in relation to the subject of taxation. So I shall ask the committee to bear with me when we get into a more intimate discussion of the article, because of its technicality in certain places.

Mr. Parsons — Referring to Section 2, the first sentence, which reads: "Taxes shall be imposed by general laws and for public purposes only." I would like to ask whether the committee had any particular thought in mind in using the phrase "for public purposes"?

Mr. M. Saxe — Well, I was not prepared to go into that to-day, but I can. It is a settled policy of the law of taxation that taxes should be levied for public purposes, and on that point, I will quote from Cooley on Taxation, Volume 1, page 84:

"It is the first requisite of lawful taxation that the purpose for which it is laid shall be a public purpose. The decision to lay a tax for a given purpose involves a legislative conclusion that the purpose is one for which a tax may be laid; in other words, it is a public purpose. But the determination of the Legislature on this question is not, like its decision on ordinary questions of public policy, conclusive either on the other departments of the government, or on the people. The question, what is and what is not a public purpose is one of law; and though unquestionably the Legislature has large discretion in selecting the object for which taxes shall be laid, its decision is not final. In any case in which the Legislature shall have clearly exceeded its authority in this regard, and levied a tax for a purpose not public, it is competent for any one who in person or property is affected by the tax, to appeal to the courts for protection."

Mr. Parsons — May I ask whether it would affect the situation which was referred to by Professor Reeves the other day, when we were discussing the limitation on agricultural leases. He referred to the provision of the Tax Law which places a tax on leases for more than twenty-one years. Now the object of that was to prevent the leasing of property for more than twenty-one years. Now would that be a public purpose within this provision?

Mr. M. Saxe — I can only answer that very generally, in the language of Mr. Cooley himself, that it is for the courts to determine. If it is the public policy of the State, why undoubtedly I should say that the courts would hold that it was for a public purpose.

Mr. Parsons — Then it does not change the existing law of the State?

Mr. M. Saxe — Not at all.

Mr. Lincoln — Do I understand that it was the view of the committee that the Legislature cannot exempt or repeal the exemptions from taxation or modify laws relating to exemptions?

Mr. M. Saxe — You mean under the present Constitution?

Mr. Lincoln — Yes.

Mr. M. Saxe — Certainly not.

Mr. Lincoln — Then, what is the purpose of the sentence: "Laws granting exemption from taxation, whether heretofore or hereafter enacted, shall be subject to modification or repeal," if the Legislature has the power without any constitutional provision?

Mr. M. Saxe — Well, the purpose there is two-fold; the purposes are these: in the first place, we want to point out very clearly to the Legislature that they should not hesitate to modify or repeal the tax exemptions that have been granted or that may be granted hereafter. Second, take, for instance, this so-called Secured Debt Law which I happened to advert to and so can use it as an illustration for your question. Now there a tax was imposed upon a class of property by the State, a very low rate, exempting that property from taxation in perpetuity. There is a difference of opinion among the authorities, some contending that as one Legislature cannot bind a successor, any succeeding Legislature can repeal that exemption, and I believe that to be so. I do not believe that this is a contract between the State and those who sought to take advantage, but there are differences of opinion as to that and therefore people say, "Well, if it is not a contract, it is a moral obligation. If you have exempted this property from local taxation in perpetuity in consideration of a five-mill tax paid to the State, you ought to let it stand." The question was raised when the Secured Debt Law which was passed by the Legislature was before the House, when they —

Mr. Wickersham — I should like to ask whether this clause which he is now discussing is intended to affect such a case as that Secured Debt Law, where the State, having by general law invited holders of a certain class of property to pay a definite tax in consideration of the agreement that that particular piece of property should not in the future be taxed, and the invitation having been accepted by a particular owner,—I understand the gentleman now to say that he does not consider that that was a contract which was binding upon the State. Now, independently of his individual opinion, I should like to ask whether he intends by this provision to alter the existing law affecting such contracts? It seems to me, Mr. Chairman, that no more serious blow to the credit of the State of New York could be dealt than any such provision as that.

Mr. M. Saxe — Well, Mr. Chairman, as I said, I have not proposed to debate that question at length to-day, but it is something that we have evidently got to work out in Committee of the Whole for the purpose of reaching a proper conclusion.

Mr. Wickersham — I desire to know simply whether the gentleman intended by this provision to change this law, if he is mistaken in his view of the existing law on that subject?

Mr. M. Saxe — No, not at all; not to change the law. I still believe that the Legislature has the power — although it might be a very iniquitous thing to exercise it — to repeal such a law granting such exemption, and I will give the gentleman considerable authority on that point when the time comes.

Mr. Wickersham — What I desired to know, Mr. Chairman, was whether in using this language, “Laws granting exemptions from taxation, whether heretofore or hereafter enacted, shall be subject to modification or repeal,” the gentleman meant to embody in this proposed constitutional provision his construction of the existing law or whether he meant to remove any uncertainty that might exist now on that question?

Mr. M. Saxe — Well, I certainly did not mean to embody my own ideas. I did not mean to do anything more than to express the law as I understood it, that laws granting exemptions not contractual in their nature may be subject to repeal. Now, there is no question that if a law is contractual in its nature, it cannot be repealed because we are up against the fact that the Constitution,—

Mr. Wickersham — Does the gentleman mean to say that when the State has one general system of taxation, annual taxation, and it invites the holders of a particular kind of property, such as a mortgage, such as a bond, to pay a particular tax, once and for all in consideration of the solemn obligation of the State, that that piece of property shall not be subject to taxation in the future — that that is not a contractual obligation of the State?

Mr. M. Saxe — That is my view, Mr. Chairman.

Mr. Wickersham — Well, Mr. Chairman, if that were generally stated by the State of New York when it invited this large amount of property, including millions of dollars’ worth of mortgages and millions of dollars’ worth of bonds,—if that had been stated at that time to be the understanding of the State of New York, inviting people into that contract, not one dollar of the millions of revenue that have been collected on that basis would have been received by the State.

Mr. M. Saxe — If you will pardon me for a moment, in order to clear up the situation, I would like to read a further quotation from Cooley on Taxation.

“Restriction or relinquishment of the power by contract. In some cases the state legislature is found to have pledged the state, in definite and formal manner, that on some particular subject of taxation the state should refrain either wholly or for some definite period, from levying any taxes whatever, or should levy them only to a certain extent. Such pledges are commonly impolitic and unwise, and it is always among the possibilities that,

if sustained, they might be carried to the extreme of crippling the sovereign power of the state to perform its accustomed functions. There has always, therefore, been a strong protest against the doctrine that such pledges could constitutionally be made; the protestants insisting that no legislature is competent to limit the power of its successor, but must transmit to those who come after it the complete power which it received from its predecessor. But the federal supreme court in an early case, in which the facts were that a state had exchanged lands with an Indian tribe, and stipulated by legislative act that those conveyed to the Indians should not thereafter be subject to any tax, decided that this stipulation was binding upon the state as a contract; that the state could not impose taxes in contravention of the stipulation, and that the exemption was available on behalf of those who subsequently by legislative permission became purchasers from the Indians. The contract derived its character of inviolability from the clause of the Constitution of the United States inhibiting the states from passing any law impairing the obligation of contracts; a clause which applies to the contract of a state equally with those of individuals.

“The contract of exemption may either be perpetual or limited to a definite period, and it may be for the taxes generally, or only for some portion of them, or it may be a limitation of the tax within some specified bounds. The same principles apply in each case. Where a certain sum is specified for a certain percentage upon valuation, or upon receipts or acquisitions in any form, that is in the nature of a commutation of taxes, the state agreeing that the sum named is, under the circumstances, a fair equivalent for what the customary taxes would be, or the fair proportion which the person bargained with ought to pay, and the power thus to commute, though liable to abuse, is undoubted. And this rule applies when a bonus is paid for complete future exemption, to the same extent and on the same reasons as when the commutation is for an annual payment.”

Mr. Byrne — Mr. Saxe, if you have answered the question asked by Mr. Wickersham, I have not understood the answer or have not heard it. Was it the intention, yours or the committee's, and I care not which, when those words were put in there, “Laws granting exemptions from taxation, whether heretofore or hereafter enacted, shall be subject to modification or repeal” — was it your intention to declare the power of the Legislature to set aside such acts as the Secured Debts Law?

Mr. M. Saxe — No, our intention was nothing more than to put into the fundamental law the determination of the courts.

Mr. Byrne — Would it not have that effect?

Mr. M. Saxe — Now, if am wrong in my interpretation of the action of the courts, that does not affect the import of this sentence.

Mr. Byrne — But is not that the effect of the sentence?

Mr. M. Saxe — What effect?

Mr. Byrne — To give them the power to repeal the Secured Debts Law, to settle that question?

Mr. M. Saxe — No, unless they have not that power now, which I contend they have. But that is merely personal opinion, and I want it to be so understood.

Mr. Wickersham — In view of the decision of the Supreme Court of the United States, following that cited by Judge Cooley in the paragraph that the gentleman read, and recognizing the fact that the Supreme Court of the United States would have the final decision of this question, does the gentleman think it would be wise to enact in the Constitution of this State a clause which would attempt to repeal contracts, solemnly made by the State of New York, or laws which might reasonably be claimed to be contracts on the part of the State of New York and thus invite a litigation which would go to the Supreme Court of the United States, over the solemn contractual obligations of the State of New York?

Mr. M. Saxe — I should say, categorically, no; but what I had in mind was to aim at that vice in the future. Now, such a law as the Secured Debt Law, in my opinion, was unwise legislation.

Mr. Wickersham — Oh, that is another question.

Mr. M. Saxe — And I will point to certain authorities later on when we come to argue that which will make that very clear. I had in mind that if we had such a provision in the Constitution, the Legislature would go very slow in the future before it enacted such unwise legislation. But now, as I said, Mr. Chairman, I have not prepared myself to argue this article at length to-day. I am simply endeavoring to make a preliminary statement, because, as I said, we are going to have many long debates over the whole proposition before we get through with it, so I will merely ask that the usual motion of progress be made.

Mr. Wickersham — I move that further consideration of this subject be postponed, and that when the committee rise it report progress and ask leave to sit again.

The Chairman — You have heard the motion of the gentleman from New York. Those in favor of that motion will manifest it by saying Aye, contrary No. The motion is agreed to.

Mr. Wickersham — Mr. Chairman, I move that the Committee arise.

The Chairman — You have heard the motion of the gentleman from New York, Mr. Wickersham, that the Committee of the

Whole do now arise. Those in favor will say Aye, contrary No. It seems to be carried and is carried.

(The President resumes the Chair.)

Mr. Deyo — The Committee of the Whole, having under consideration several bills, begs to make the following report:

The Secretary — The Convention resolved itself into Committee of the Whole and proceeded to the consideration of General Orders, being Proposed Amendment entitled as follows: No. 88, to amend Section 1 of Article XIII of the Constitution, relating to the official oath. After some time spent therein, the President resumed the Chair, and Mr. Deyo from said committee recommended that the enacting clause in said Proposed Amendment be stricken out.

The President — The question is upon agreeing with the report of the Committee of the Whole. All in favor of agreeing with the report will say Aye, contrary No. The Ayes have it and the report is agreed to, and the enacting clause is stricken out.

The Secretary — The Convention resolved itself into Committee of the Whole, and proceeded to the consideration of General Orders, being Proposed Amendment entitled as follows: No. 756, to amend the Constitution, by inserting a new article, in relation to taxation.

Also No. 749, from the Committee on Education: To amend Section 1 of Article IX of the Constitution, in relation to the supervision and control by the State of the education of children.

After some time spent therein, the President resumed the Chair, and Mr. Deyo from said committee reported progress and asked leave to sit again.

The President — The question is upon granting leave to sit again. All in favor of granting leave will say Aye, contrary No. The Ayes have it and the leave is granted.

Mr. Wickersham — I ask unanimous consent to present the excuse of Mr. C. H. Betts, who writes asking to be excused from attendance during the week commencing the 26th, as his doctor has ordered him away on account of ill health.

The President — All in favor of granting the excuse will say Aye, contrary No. The excuse is granted.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 12:25 p. m., the Convention adjourned, to meet at 10 o'clock a. m. Wednesday, July 28, 1915.

WEDNESDAY, JULY 28, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Frank F. Blessing.

The Rev. Mr. Blessing — Ever blessed and eternal God, in whom we live and move and have our being, we ask Thy blessing at the beginning of the session, that Thou wilt grant us the assurance of Thy blessing, Thy favor and Thy presence. Quicken our perceptions, Our Father, that we may realize Thy presence at all times. May we understand the truth of Holy Writ, "He that dwelleth in the secret place of the Most High shall abide under the shadow of the Almighty. I will say of the Lord, He is my rock and my refuge, in Him will I trust." Save us, Our Father, from acknowledging any sovereignty above Thine, and we ask Thee, also, to quicken us this morning with Thy sustaining grace, and if problems are perplexing, we ask Thee to enlighten our hearts and give us the assurance that Thou, who art all light and in whom is no darkness at all, will grant us richly of Thy blessing and of Thy mercy, and that Thou wilt quicken our understanding, that we may do all things in the fear of the Lord. Hear us in this our petition, and finally bring us home at last to be with Thee in Thy eternal mansion. We ask it for His Name's Sake. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal stands approved as printed.

Presentation of memorials and petitions.

Mr. Coles — I present a memorial from the Religious Society of Friends upon the subject of capital punishment, and also one on the subject of exemptions from military service.

The President — The first memorial will be referred to the Committee on Bill of Rights, and the second goes to the Committee on Military Affairs.

The Chair lays before the Convention the following communications which will be referred to the Committee on Cities: From the common council of the city of Lackawanna, the common council of the city of Ithaca, the common council of the city of Niagara Falls, the Syracuse Chamber of Commerce, the Rome Chamber of Commerce, the common council and mayor of the city of Little Falls, and the mayor of the city of Jamestown.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. J. G. Saxe — Mr. President, I move that Mr. Potter of New York be excused from attendance for the balance of the week, because of illness in his family.

The President — All in favor of that motion say Aye, contrary No. The motion is agreed to and Mr. Potter is excused.

The President — Reports of standing committees.

The Chair has a report submitted by the Chairman of the Committee on Public Utilities, which will be laid before the Convention.

The Secretary — By Mr. Hale, Chairman of the Committee on Public Utilities. The Committee on Public Utilities, to which were referred:

First: Proposed Amendment introduced by Mr. Foley (No. 715, Int. No. 98), entitled "Proposed Constitutional Amendment, to amend Article V of the Constitution by adding a new section thereto in relation to public service commissions for the first and second districts;"

Second: Proposed Amendment introduced by Mr. Schurman (No. 161, Int. No. 161), entitled "Proposed Constitutional Amendment, to amend Article V of the Constitution by adding a new section thereto in relation to public service commissions;"

Third: Proposed Amendment introduced by Mr. Olcott (No. 718, Int. No. 249), entitled "Proposed Constitutional Amendment, to amend the Constitution by adding a new article creating public utilities commissions and prescribing their jurisdiction, powers and duties;"

Fourth: Proposed Amendment introduced by Mr. Coles (No. 494, Int. No. 482), entitled "Proposed Constitutional Amendment, to amend Article V of the Constitution by adding a new section thereto in relation to public service commissions;"

Fifth: Proposed Amendment introduced by Mr. Hinman (No. 655, Int. No. 639), entitled "Proposed Constitutional Amendment, to amend the Constitution by adding a new article creating public service commissions and prescribing their jurisdiction, powers and duties;" and

Sixth: Proposed Amendment introduced by Mr. Landreth (No. 708, Int. No. 688), entitled "Proposed Constitutional Amendment, to amend Article V of the Constitution in relation to the public service commission, its powers and duties;" reports in favor of the passage of the following as a substitute for said proposed amendments:

Introduced by the Committee on Public Utilities. "Proposed Constitutional Amendment, to amend Article V of the Constitution, by adding a new section thereto relating to public service commissions:"

The Secretary — Second reading. To amend Article V of the Constitution, by adding a new section thereto, relating to public service commissions:

The Delegates of the People of the State of New York, in Convention assembled, do propose as follows:

The President — Is any special disposition of this amendment proposed?

Mr. Coles — Mr. President, may we have the amendment read for the information of the delegates?

Mr. Kirby — Mr. President, a copy of the draft of the proposal before the committee was submitted to me by Judge Hale yesterday. I was unable to participate in the deliberations of the committee last week. Not being in accord with the majority, I beg leave to submit a minority report.

The Secretary — Proposed Constitutional Amendment reported by the Committee on Public Utilities, to amend Article V of the Constitution, by adding a new section thereto to be appropriately numbered, to read as follows:

The existing public service commissions are continued and the commissioners now in office shall hold their offices until the expiration of their terms. Their successors shall be appointed by the governor by and with the advice and consent of the senate and their terms of office shall be five years. Each commission shall have the jurisdiction, powers and duties it now has, but nothing herein contained shall prevent the legislature from enacting laws not inconsistent with this section changing such jurisdiction, powers and duties; except that the legislature shall not enact any law prescribing a rate or charge or a standard of service, equipment or operation for any public utility until after it has received from one of the commissions a report thereon made after investigation and hearing at which interested parties may introduce evidence, or until after the expiration of such time following a request for such report as may be prescribed by law. Decisions and orders of the commissions shall be subject to review by the courts in such manner and to such extent as the Legislature may provide. Any commissioner may be removed by the Senate on the recommendation of the Governor stating the grounds on which such removal is recommended. The salaries of the commissioners shall not be diminished during their respective terms.

Mr. Cullinan — Mr. President, the subject-matter of the amendment is being considered by the Committee on Governor and Other State Officers. It would seem to me that before any action is taken on this matter that the opinion of the Committee on Governor and Other State Officers ought to be received, because I think they are considering some of the questions that are incorporated in the amendment; and I move that the amendment be referred to the Committee on Governor and Other State Officers.

Mr. Quigg — Pending that, Mr. President, may I ask that Mr. Kirby's minority report be read?

The President — The Secretary will read the minority report.

The Secretary — To the Convention.

The undersigned hereby dissents from the report of the Committee on Public Utilities relative to the office of Public Service Commissioners, and gives the following reasons therefor:

First: That the continuation in office of the commissioners in the Second District at the present salary of \$15,000 each and at a greater salary than judges of the Court of Appeals and justices of the Supreme Court, except in the first department, should not be tolerated.

Second: That the proposal of the committee does not prevent the Legislature from further raising the compensation of the commissioners.

Third: That the right to review, and the extent and manner thereof, of the decisions and orders of the commission should not be left to the Legislature but should be fixed by the Convention.

(Signed) THOMAS A. KIRBY.

Mr. Brackett — I cordially support the motion of the delegate from Oswego, Mr. Cullinan. I am not particular to which committee this report shall be referred, and I therefore accept the suggestion of the mover of the motion that it go to the Committee on Governor and Other State Officers. If there ever was "commissionitis" run mad, it is in the form of this majority report. The great question as to whether this commission should at all be made a constitutional body is involved here, but, passing that, we have a majority report which, while carefully refraining from the power of review of the commission, which is of the utmost consequence and which is basic and which, if there is anything which should go into the Constitution, should be there placed, indicating the extent of the power of review,—that is all remitted to the Legislature, but we find a most careful provision in the report as going into the Constitution, that the salary of the commission, outrageous in amount as it always has been and is to-day,—that it shall, under no circumstances, be reduced. With the utmost respect for the members of this committee that have made the majority report, believing that, in the introspection that comes from the continued view of a subject from one side, they have inadvertently gone wrong, and not with any intention, I earnestly hope that the report may go to the Committee on Governor and Other State Officers, and I earnestly hope, Mr. President, that that committee will give the utmost attention to the protests of the minority report filed by the member from Orleans, Mr. Kirby, believing that it truly represents the sentiment of the people of this State on the subject, and that they are in no mood to tolerate any such placing of the commission beyond the reach of the law in the body of the Constitution, and placing even their compensation beyond the power of the people to touch or change.

Mr. Cullinan — I also desire to add to my motion that the minority report accompany the amendment.

The President — It is unnecessary to specify that. The minority report will go to the committee with the amendment.

Mr. Hale — I don't suppose this is the place nor the time for entering into the merits of this report, but it is well enough to correct a misapprehension at the beginning, rather than to encounter a greater misapprehension later on.

So I want to say to my Brother Brackett, that there is now a provision in the Constitution, which we assume will stay there, to the effect that the salary of anybody in office shall not be either reduced or increased during his term, and I assume that the same thing will continue. The situation simply is that when a man is appointed commissioner for five years, the State enters into a contract with him, or it ought to be considered as so doing, and that if he performs his functions and duties in the manner that he ought to do, the salary ought not to be reduced during the five years. There is no objection, of course, to the general application of the opposite doctrine, that it should not be increased, because no man ought to expect more than he is promised for the performance of public duty, and oftentimes he gets much less; but I simply desire at this point to correct this misapprehension.

Now, in regard to the reference to the Committee on Governor and Other State Officers: If the report of this committee is to go to that committee for its opinion, there is not the slightest objection. It has got to stand the examination and test and judgment of every delegate, and I don't care how many committees it goes to for the purpose of receiving their opinion back to this Convention, but if the proposition is that our work is to be submitted to the judgment, on the merits, of the Committee on Governor and Other State Officers and of the Committee on Legislative Powers, that is quite a different proposition, which I shall oppose.

Mr. Brackett — I had not supposed, up to the present moment, that the filling of an office, to which a salary was attached, created a contractual relation between the State and the official. I am not unaware of the great legal knowledge of my learned friend from St. Lawrence, and, therefore, I shall not dispute the proposition without examination, but I have not up to this moment understood that that was the case. I call the learned gentleman's attention to the fact that he is proved mistaken on the matter that the question of the decrease of salaries or the increase is governed by any present provision of the Constitution, and it only adds to the firmness of my conviction that my friend has so seen the subject as to which his committee reports from a single angle, that he has overlooked, or has believed that the provision which he mentions

is in the Constitution and is applicable to the commissions. The only provision on the subject that I know of in the Constitution, relating to the increase or decrease of salaries, is found in Section 1 of Article V of that respected and ancient document, and it provides that, "The Secretary of State, Comptroller, Treasurer, Attorney-General and State Engineer and Surveyor shall be chosen at a general election, at the times and places of electing the Governor and Lieutenant-Governor, and shall hold their offices for two years, except as provided in Section 2 of this article."

Then follows this: "Each of the officers in this article named, excepting the Speaker of the Assembly,"—which, of course, does not include the public service commissioners,—“each of the officers in this article named, excepting the Speaker of the Assembly, shall, at stated times, during his continuance in office, receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected.” Of course, that provision does not affect or relate to or govern the public service commissions.

Mr. Marshall — Mr. President, will the gentleman yield for a question?

Mr. Brackett — Well, I hate to, because of the growing custom which is becoming a nuisance, and so I am going to object, and allow the gentleman to remit himself to a speech later.

Mr. Marshall — I simply wanted to correct a misapprehension.

Mr. Brackett — I have no doubt that I have got a lot of misapprehensions which can be corrected in any reasonable amount of time.

In closing, I want to call the attention of the Convention to the fact that the provision reported by this Committee does not say anything,— does not prevent the increase of salary. I am rather amused, Mr. President, that if it was regarded as sufficient or as necessary to put in a provision that the salaries should not be decreased, it should not also be put in that they should not be increased.

Mr. Hale — This is a proposed amendment to Article V of the Constitution, of which Section 1 reads,— and I assume that probably that section will not be altered by this Convention,— that, "each of the officers in this article named"—and these officers will be named in this article if the amendment is adopted,— leaving out some immaterial words now, shall "receive for his services a compensation which shall not be increased or diminished during the term for which he shall have been elected."

Now the word "elected" will not apply, but the word "appointed" will.

Now, I would be perfectly satisfied, of course, when the proper time comes in the Committee of the Whole with the amendment,

"should not be increased or diminished," or anything along that line; but to say that this general provision in the Constitution is not to be applicable is to say that we have entirely misconstrued the article we are trying to amend.

Mr. Wickersham — I desire to call attention simply to the status of the measure and what is proposed by this motion. The committee of which Judge Hale is chairman, having considered a great many bills on the subject, has brought in a reported measure which ought to go to general orders. Now if such measures instead of going to general orders are sent by special resolution to other committees for consideration, this vicious circle will be going on and there will be no possibility of our getting through our work. There is no reason why the Committee on Governor and Other State Officers or any other committee may not consider any measure pending and give expression to their views through their chairman on the floor in Committee of the Whole, but I do object to sending a measure like this, which is the result of the study of the committee having the subject in hand, to some other committee and thus complicating the control of the particular matter. I hope the motion will not be adopted.

Mr. Tanner — Mr. President, it seems to me that Mr. Cullinan's motion has some merit in it; but I doubt if the reference should be made to the Committee on Governor and Other State Officers, for the very sufficient reason that in this proposed amendment there are a great many things; for instance, a provision that the Legislature shall not enact any law prescribing a rate or charge or standard of service. If the Committee on Governor and Other State Officers is compelled to give careful study to a subject like that, such as the Committee on Public Utilities has already given, the work of the Committee would be interminable; and I am going to suggest to Judge Hale that if this goes into general orders, it will not be called up until the general report on the outline of government is made by the Committee on Governor and Other State Officers. And in that way the part of his amendment which properly has to do with the Committee on Governor and Other State Officers can be settled at the same time.

Mr. Hale — Mr. President, that suggestion is perfectly satisfactory.

Mr. Cullinan — That is satisfactory to the mover of the motion and it is withdrawn.

The President — Is there any further motion to be made? Without further disposition being suggested, the proposed amendment is referred to the Committee of the Whole.

Further reports of standing committees.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to placing upon the desks of the members daily separate files containing amendments on third reading or general orders upon the calendar, introduced by Mr. Austin on July 20, 1915, reported in favor of the adoption of the same with the following amendment:

Resolved, That the Secretary of the Convention be instructed to place on the desks of the members daily an additional copy of each amendment which is upon the third reading or general orders calendars, such copies to be arranged in order of their appearance thereon.

The President — Is the Convention ready for the consideration of the report? Those in favor will say Aye, contrary No. The report is accepted and adopted.

Mr. Cullinan — Mr. President, I may be a little out of order, but I would like to make a motion in regard to the bills submitted to the Committee of the Whole Monday night in reference to absentee registration, and I move that the Committee of the Whole be discharged from consideration of those bills, and that they be recommitted to the Committee on Suffrage.

The President — Will the gentleman announce the numbers of the bills?

Mr. Cullinan — Well, there are five: Introductory Nos. 42, 91, 127, 247, 285, General Orders No. 18.

The President — Mr. Cullinan moves that the bill No. 18 on the calendar of general orders, Printed No. 742 — that the Committee of the Whole be discharged from further consideration of the bill, and that the same be recommitted to the Committee on Suffrage. All in favor of the motion will say Aye, contrary No. The motion is agreed to. The bill is recommitted.

Mr. Latson — Mr. President, early in the session a memorial was presented from Mr. Coles, and I understood the Chair to refer that to the Committee on Bill of Rights, with a copy to the Committee on Militia and Military Affairs. If I have correctly understood the Chair, I take the liberty of directing the attention of the Chair to the fact that similar memorials on the same subject were referred to the Committee on Militia, with a copy to the Committee on Bill of Rights, and if it seems appropriate to make any correction I will leave that entirely to the Chair.

The President — There were two memorials, and the reference was to the Chairman of the Committee on Military Affairs. The division was vertical and not horizontal. The first memorial went to the Committee on Bill of Rights and the second went to

the Committee on Military Affairs. Solomon himself could not be more fair.

Are there any further reports of standing committees?

Mr. Mereness — A report from the County, Town and Village Committee.

The Secretary — Mr. Mereness from the Committee on County, Town and Village Officers to which was referred proposed amendment introduced by Mr. Kirby, printed number (No. 57), entitled "Proposed Constitutional Amendment, to amend Section 1, Article X of the Constitution," reported in favor of the passage of the same, without amendment.

The President — Does any member of the Convention desire to move a special disposition of this proposed amendment? It is referred to the Committee of the Whole.

Further reports from standing committees.

The Secretary — Mr. Clearwater, from the Committee on State Prisons, Reformatories and the Prevention and Punishment of Crime, to which was referred the proposed amendment introduced by Mr. Tierney (Print No. 477, Int. No. 465), entitled "Proposed Constitutional Amendment, to amend Section 29 of Article III of the Constitution, in relation to prison labor," reported in favor of the passage of the same with the following amendment:

On page 2, line 7, after the word "class" insert "situated within one mile of any state prison." Also strike out the period in same line and insert a comma.

The President — Is there any motion to be made as to the disposition of this report? Referred to the Committee of the Whole.

Reports of select committees.

Third reading.

Unfinished business in general orders.

Special orders.

General orders. The Secretary will call the calendar.

Mr. Wickersham — Mr. President, several of the chairmen of important committees have suggested that if they could have today free they could carry their work on to an advanced state and perhaps finish it, and for that reason I move that the calling of the calendar of general orders be dispensed with.

The President — It is moved that the calling of the calendar of general orders be dispensed with. All in favor of the motion will say Aye, contrary No. The motion is agreed to. The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move that the Convention adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:45 a. m., the Convention adjourned, to meet at 10 o'clock a. m. Thursday, July 29, 1915.

THURSDAY, JULY 29, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. J. Addison Jones.

The Rev. Mr. Jones — Let us pray. Almighty God, our Heavenly Father, Creator of all men and Ruler of all nations, we thank Thee that our lot has been cast in this fair land; we thank Thee for its laws and its liberties, for the land of truth and righteousness and moral worth of which Thou hast made it the depository. In its peace and progress and prosperity we have all a deep personal interest. And we ask that Thou wilt give us grace to live honorably in times of peace and heroically in times of conflict should they come in our experience, and we ask that Thou wilt guide with wisdom and strength those who shape our policies and determine our destinies, that wrongs may be righted, that evils may be eradicated, and that all that thwarts our true advancement may be overcome so that we may move forward in those things which are according to Thy desire and Thy design for us. And what we ask for our nation, we ask for all the nations of men, so that the whole of the human race may move forward in one unbroken line to those high ideals which Thou hast set before us. Grant these great gifts in Thy mercy and goodness, for Thy Name's sake. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed?

Mr. Quigg — I regret to have to say that the illness in Mr. Mulry's family has not diminished in its severity and I ask, in his behalf and at his request, that he be excused from further attendance this week.

The President — Mr. Quigg asks unanimous consent for the excuse of Mr. Mulry from attendance this week on account of illness in his family. Is there objection? The Chair hears none and the excuse is granted.

There being no amendments proposed the Journal is approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from the common council of the city of Yonkers, which will be referred to the Committee on Cities; also from a conference of officials and citizens of the city of Rome, same reference. The Chair also lays before the Convention a letter from the junior Senator of the State of New York, Mr. James W. Wadsworth, Jr., directed to the President, which will be referred to the Committee on Governor and Other State Officers.

Mr. Dykman — Mr. President, may I ask that the letter be read?

The President — Without objection, the Secretary will read the letter.

MOUNT MORRIS, N. Y., July 22, 1915

HON. ELIHU ROOT, *Constitutional Convention, Albany, N. Y.*:

My dear Senator Root:

My deep interest in several of the subjects now being considered by the Constitutional Convention and the experience of my six years' service in the Legislature must be my excuse for this letter. As you probably know, I have for some time advocated a substantial reduction in the number of State elective officers and the concentration of the administrative agencies of the State into an appropriate number of departments. Sincere as my conviction is that benefit will accrue from a reorganization of this kind, even though nothing else be done, I am very earnestly of the opinion that to obtain the greatest benefits from such a reorganization, it is absolutely necessary to increase the term of the Governor to four years, the Senators to four years, and the Assemblymen to two years. The present terms of these officials are far too short to permit the incumbents to gain a comprehensive grasp of the business of the State, executive or legislative. The governmental affairs of New York have grown so great that no man, be he Governor, department chief or legislator, can hope to present and test a policy and program, based upon knowledge, within the time now allowed. As a result, there is no continuing policy in the management of the State's affairs, for no policy can be thoroughly tested within that brief period, and each policy is abandoned and a new one substituted every two years. The short terms of the legislators have a peculiarly unfortunate effect upon the work of the Legislature. The fact that a member of the Assembly is elected for but one year makes it exceedingly difficult to retain in that body young men of ability and promise. The strain upon their resources, incident to annual elections, is so great that large numbers of the very best men are compelled to retire after a short service and just at the time when they bid fair to become efficient legislators. The Legislature has never

lacked good men, but it has suffered because so many good men are unable to remain and become highly efficient. The State is the sufferer, for it is exceedingly difficult to maintain orderly progress from session to session in the matter of legislating for the needs of the people.

In my judgment, it would do comparatively little good to reorganize the legislative departments of the State for the purpose of more business-like management unless the chief executive and the Legislature are put in the position where they, too, are able to comprehend the functions of government, the history of legislation and the needs of the public. The departments cannot be efficiently run unless the chief executive and the legislators, from whom the departments must receive their inspiration and their authority, are men of sound judgment based upon experience. I venture to express the earnest hope, therefore, that the term of the Governor be doubled and the term of the Senators and Assemblymen, respectively, be doubled. I verily believe that such a change is required, in order to establish a true foundation for the improved structure which the Convention is erecting.

With best wishes and great respect, believe me

Sincerely yours,

J. W. WADSWORTH, JR.

Mr. Brackett — I move that the communication from the junior Senator be referred to the Committee on Legislative Organization. I do this for the purpose of saying that it is with the utmost respect and with the liveliest friendship toward the author of the letter that I say that there are some of us in this Convention who cannot agree with the conclusions which are thus drawn in the letter. I appreciate, Mr. President, all the tremendous influences that are being urged in favor of getting away from the people on these questions, the question of the terms of the State officers, the term of members of the Legislature, and with respect to putting the tremendous conservation power into the hands of the executive. I appreciate that these influences can command other influences and that we who stand here and oppose that course cannot control the influences and cannot have the letters written for the purpose of creating a tremendous impression on the members of this body; but it still stands, Mr. President, it still stands that some of us have given prayerful consideration to this question, a consideration which in earnestness cannot be surpassed by any of the gentlemen who are on the other side.

I think I may safely say that it still stands that those of us who are finally found aligned against this tremendous change in the doctrines of our State government approach the subject with

all the loyalty to the State, with all the patriotism that the gentlemen on the other side possess or can exhibit. But this is a doctrine that we cannot surrender and if, Mr. President, it comes — and long may the day be distant when it does come — that this doctrine, this principle, this method is put upon the State, there are some of us who feel just as surely as we feel our own existence that the first step is taken away from popular government. It does not mean, Mr. President, that to-morrow or next day there will be less efficiency in some of these appointive offices; it is not that; what we object to is the fact that it centers a tremendous power in the hands of a single man, the executive of the State, and we stand as zealous against having the rights of the people in the control of any single man whatever, no matter what his position. A great poet sang, many years ago, "They enslave their children's children who make compromise with sin." I believe, as I believe in my existence, while none of us here may live to see it, the day will come when the children's children will be found living under a form of government far from republican, far from representative, far from the principle of self-government. And believing that, recognizing with respect all of the great opinions and influences that may think otherwise, I stand for one as I believe most of us will stand in saying with a great President on another occasion, I would rather be assassinated on this very spot than surrender these convictions.

The President — The Chair is of the opinion that the delegate from Saratoga is right, that this letter should be referred to the Committee on Legislative Organization. It refers to subjects which come under the jurisdiction of that Committee, and also some which come under the jurisdiction of the Committee on Governor and Other State Officers, but the Chair believes that the subject-matter of the letter is such that it should go to the Committee on Legislative Organization, and that reference is accordingly made.

Mr. Brackett — With a copy to the Committee on Governor and Other State Officers, Mr. President, if it is desired.

The President — A copy may be sent to the Committee on Governor and Other State Officers.

Mr. Tanner — I was going to make that suggestion, Mr. President, calling the attention of the Senator who has just addressed the Convention to the fact that the communication very largely deals with the Legislature, with the increasing of its power and its dignity, by giving it a longer term, a fact which I think the Senator who has just addressed us has entirely overlooked in his remarks to the Convention.

Mr. R. B. Smith — May I suggest that the Committee on Legislative Organization has wholly considered both the power

and dignity of the Legislature and has reached the conclusion not to increase the terms of members of the Assembly or Senate.

The President — Are there any other memorials or petitions?

Notices, motions and resolutions.

The Secretary will call the roll of districts.

The President — Mr. Fogarty moves to discharge the Committee on Industrial Interests and Relations from further consideration of Proposed Amendment No. 500, Introductory No. 488, to amend as indicated and to recommit to the same Committee. All in favor of that motion will say Aye, contrary No. The motion is agreed to.

Mr. Stimson — I should like to ask unanimous consent for a motion setting down the matter reported by the Committee on State Finances, which is now pending before the Committee of the Whole, in reference to the debt and sinking funds of the State, for Thursday morning of next week. If there is any danger in that suggestion, I have no objection to its being referred to the Committee on Rules, but that is a subject-matter, which, from its length and its intricacy and its importance to the State, I think is worthy of having a fixed time set in which it shall be discussed. I understand that can be done by unanimous consent and I suggest that as an appropriate day for which it could be set.

The President — The chairman of the Committee on State Finances asks unanimous consent to make Proposed Amendment No. 758, General Order No. 35, a special order for Thursday of next week.

Mr. Wickersham — I think it very proper that the measure should be set down as a special order, but as this is the first one of applications of that kind, I think it should go to the Committee on Rules, in order that we may, if possible, map out the important work for next week, reporting a schedule that can be agreed upon for the work. There are a great many heavy reports coming on the calendar and I think the Rules Committee should suggest for the consideration of the Convention, an order of procedure.

The President — The Chair is of the opinion that the motion does not go to the Committee on Rules unless so ordered by the Convention.

Mr. Wickersham — Then, Mr. President, I move that it go to the Committee on Rules.

The President — It is moved that the motion of Mr. Stimson be referred to the Committee on Rules. All in favor of referring the motion to the Committee on Rules will say Aye, contrary No. The motion is agreed to. The Clerk will continue the call.

Mr. Mealy — I offer the following resolution for Mr. Hinman.

The Secretary — By Mr. Hinman: Resolved, That Joseph V. Allen, heretofore appointed page and for some time past acting chief of pages, be and he hereby is appointed chief of pages at a compensation of \$5 a day — said appointment to date from July 1st.

The President — Committee on Contingent Expenses.

Mr. Barnes — I move that bill Print No. 737 be amended so as to read as follows, and recommitted to the Committee on Legislative Powers.

The President — Mr. Barnes moves that the Committee on Legislative Powers be discharged from further consideration of Bill No. 737, that the bill be amended as indicated and be recommitted to the same Committee. All in favor of the motion will say Aye, contrary No. The motion is agreed to.

Mr. Rhees — Owing to an engagement made some months ago, necessitating my absence, I should be glad to be excused from attendance from Friday noon to Tuesday noon of next week.

The President — All in favor of granting the excuse asked say Aye, contrary No. The Ayes have it and the excuse is granted.

The President — Reports of standing committees.

Mr. Clearwater — The Committee on Prisons and Penal Institutions wishes to submit the following report.

The Secretary — Mr. Clearwater, from the Committee on State Prisons, Reformatories, Penal Institutions and the Prevention and Punishment of Crime, to which was referred Proposed Amendment introduced by Mr. Marshall (No. 272, Int. 269), entitled "Proposed Constitutional Amendment, to repeal Section 5 of Article IV of the Constitution, relating to the pardoning power of the Governor, and to amend Sections 11 and 12 of Article VIII of the Constitution so as to provide for the creation of a State Board of Pardons and the transfer to it of the pardoning power now vested in the Governor," reports in favor of the passage of the same, with the following amendment:

Page 2, line 9, after the word "debtors" insert semi-colon.

Page 2, line 10, after the word "pardons" insert in italics " , to consist of three members,".

Page 2, line 15, after the word "proper" strike out the words "subject to the approval of the Governor".

Page 2, line 16, after the word "treason" strike out the word "it" and insert in italics in place thereof the words "such Board of Pardons".

Page 2, line 20, after the words "to the" strike out the words "Governor and the".

The President — Is there any motion to be made in regard to the disposition of this Proposed Amendment? There being no motion, it will be referred to the Committee of the Whole.

There is a further report from the Committee on Prisons, which will be read by the Secretary.

The Secretary — Mr. Clearwater, from the Committee on State Prisons, Reformatories, Penal Institutions and the Prevention and Punishment of Crime, to which was referred Proposed Amendment introduced by Mr. Clearwater (No. 580, Int. 565), entitled "Proposed Constitutional Amendment, to amend Section 11 of Article VIII of the Constitution of the State of New York, in relation to the State Probation Commission," reported in favor of the passage of the same, without amendment.

The President — Is there any disposition to be moved of this amendment? Referred to the Committee of the Whole.

Mr. Brenner — The Committee on Corporations has disposed of all matters referred to it and submits its report.

The Secretary — Mr. Brenner, from the Committee on Corporations, to which have been referred Proposed Amendments:

Pr. Nos.	Int. Nos.	
122	122	proposed by Mr. Marshall.
143	143	proposed by Mr. Doughty.
180	180	proposed by Mr. L. M. Martin.
341	337	proposed by Mr. Bayes.
395	388	proposed by Mr. Deyo.
504	492	proposed by Mr. Sargent (for opinion)
516	504	proposed by Mr. Shipman.
623	608	proposed by Mr. Lincoln (for opinion).
664	648	proposed by Mr. E. N. Smith.
623-685	608	proposed by Mr. Lincoln (for opinion).

After numerous and extended hearings given to all desirous of being heard on the Proposed Amendments referred to the committee, and after fully and carefully considering the arguments and communications received in favor of and against the same, the Committee on Corporations beg leave to report that in its judgment no amendment should be made to the provisions of the existing Constitution relating to the subject of corporations.

JACOB BRENNER,

Chairman, Committee on Corporations.

The President — The question is on agreeing to the report of the Committee. All in favor of agreeing to the report will say Aye, contrary No. The report is agreed to.

Mr. Fobes — I offer a report of the Committee on Banking and Insurance.

The Secretary — Mr. Fobes, from the Committee on Banking and Insurance, to which have been referred Proposed Amendments No. 486, Int. No. 474, by Mr. Leggett, and No. 595, Int. No. 580, introduced by Mr. R. B. Smith, for opinion, and No. 596, Int. No. 581, by Mr. R. B. Smith, for opinion, respectfully reports that

it has fully considered said propositions, and that, in the judgment of the Committee, no amendment should be made to the provisions of the existing Constitution relating to that subject. The Committee on Banking and Insurance has examined the general laws of the State relative to these subjects. It has heard in committee representatives of the banking and insurance interests and others who have desired a hearing and has considered all proposals suggested, whether formally or informally. Having completed its work, your Committee begs leave to report that in its opinion the laws governing banking and insurance are working well and giving general satisfaction. That any modification of these laws that changed conditions may from time to time require, may properly become the subject of legislative consideration and action, and that no change in the Constitution relative to the subjects of banking and insurance is necessary or desirable.

The President — The question is on agreeing with the report of the Committee. All in favor of agreeing with the report will say Aye, contrary No. The Ayes have it and the report is agreed to.

Mr. Leggett — With reference to the proposal of Mr. A. E. Smith, reported by the Committee on Industrial Relations favorably to the Convention, the minority of that Committee finds itself seriously opposed to the adoption of the proposal, and desires me to file a minority report and I have the same statement to make with regard to General Orders No. 37, introduced by Mr. Parsons.

The President — The minority reports will be read.

The Secretary — No. 765, Introductory No. 194, introduced by Mr. A. E. Smith, referred to the Committee on Industrial Interests and Relations and reported favorably to the Convention. Proposed Constitutional Amendment, to amend Article III of the Constitution, by inserting a new section, in relation to delegation of legislative power in matters affecting employees.

The minority of the Committee opposes the adoption of this proposal for the following reasons:

That no instances were quoted to the Committee calling for additional power in the Legislature to remedy the evils sought to be cured.

That the wording of the proposal is so broad as to easily make possible the adoption by executive boards of rules and regulations that would cover ground not contemplated by the Legislature.

This would at the best constitute the Board a Legislature without the safeguards of a Legislature and without its responsibility to the people, and at the worst, it would go so far as practically to defeat the will of the Legislature.

(Signed) J. C. LEGGETT.

No. 419, Introductory No. 407, introduced by Mr. Parsons.

referred to the Committee on Industrial Interests and Relations and reported favorably to the Convention.

Proposed Constitutional Amendment, to amend Article III of the Constitution, in regard to the power of the Legislature to prohibit manufacturing in structures used for dwelling purposes. The minority of the Committee respectfully oppose the adoption of this proposal for the following reasons: That the right of the individual to earn his own living and that of his family by the labor of his own hands in his own home through the pursuit of a lawful and innocent occupation should never be at the risk of the tyranny, caprice or mistake of the Legislature. That this is a right which has existed from time immemorial and which the State should not be permitted to take away. Men have organized rebellions and suffered death for less cause than would be possible under this proposal.

(Signed) J. C. LEGGETT.

Mr. A. E. Smith — Are there any names attached to the minority report except that of Mr. Leggett?

The Secretary — No.

The President — The minority report will be printed under the rules.

Mr. Lindsay — The Committee on Relations to the Indians has completed its work and reports by a Proposed Amendment.

The Secretary — Mr. Lindsay, from the Committee on Relations to the Indians, to which have been referred several Proposed Amendments relating to abolishing all Indian courts and extending the laws of the State of New York to the Indians, reports by Proposed Constitutional Amendment entitled: "To amend Section 15 of Article I of the Constitution of the State of New York, in relation to Indians." And said Committee reports in favor of the passage of the same.

The Secretary — Second reading: To amend Section 15 of Article I of the Constitution of the State of New York, in relation to Indians.

The President — Does the member desire to propose any special disposition of this Proposed Amendment? Referred to the Committee of the Whole.

Mr. Marshall — I learn that while I was otherwise engaged there was a report presented here from the Committee on Corporations, a report with regard to a number of bills. I desire to make a motion with regard to that report and if it can be brought up now in the proper way, I should like to move to disagree with so much of the report as is adverse to Proposed Amendment No. 122.

The President — A motion to reconsider the vote by which the Convention agreed to the report will be in order.

Mr. Marshall — That is the motion. I so move.

The President — Mr. Marshall moves to reconsider the vote by which the Convention agreed to the report of the Committee on Corporations.

Mr. Wickersham — Mr. President, must not that motion be made by some one who voted in favor of the resolution which was adopted?

The President — No. The vote not being taken by roll call, any member is entitled to move to reconsider.

Mr. Brackett — I assume that the gentleman from New York, Mr. Marshall, wants to debate his amendment that is reported adversely.

Mr. Marshall — That is my idea.

Mr. Brackett — I suggest to him that his motion is entirely unnecessary. I assume that he does not want to debate it here in the Convention and I suggest that he can bring the entire matter up by a motion to amend the report of the Committee or to disagree with the report of the Committee in general orders.

Mr. Marshall — It is not in general orders. It is an adverse report.

The President — The gentleman from New York, Mr. Marshall, moves to reconsider the vote by which the Convention agreed to the report of the Committee on Corporations.

Mr. Marshall — Merely with respect to the report on measures No. 122 and No. 664. I desire at the proper time to have an opportunity to debate the proposition.

The President — The attention of the Chair is called to the fact that the chairman of the Committee on Corporations is not in his seat.

Mr. Marshall — Then I make the motion to reconsider with respect to those two measures and ask to have it lie on the table, to be taken up at some future time.

The President — Without objection, the motion to reconsider will lie upon the table.

Reports of select committees.

Third reading.

Unfinished business of general orders.

Special orders.

General orders.

The Secretary will call the calendar.

The President — Three numbers on the general orders calendar having been moved, the Convention will go into Committee of the Whole on the calendar. Mr. Morgan J. O'Brien will take the chair?

The Chairman — Gentlemen, the Convention is in Committee of the Whole, and the Secretary will read a bill.

The Secretary — No. 749, General Order No. 22, by the Committee on Education.

Mr. Shipman — I was not here at the time this measure from the Committee on Education was brought before this Convention but I have read the Record upon the subject and it seems to me that the chairman of the Committee has expressed very fully and very clearly the object of the amendment and its scope and purpose, and that there remains but little more to be said. Nevertheless, from certain questions asked in the course of debate and from certain statements made by some of the members, it would seem that they had the apprehension that in this amendment the Committee sought to state something new, to confer some new powers of a greater development. I can assure the Convention that nothing of the kind was in the mind of the Committee. The amendment was sought to be put into the Constitution so as to render more definite and certain facts which had been somewhat in dispute before, to draw the boundary line between contentious parties. It is only sought to continue throughout the State of New York the present organization and control of education. It is not sought to introduce any innovation.

The question primarily arose because certain communities in this State had taken the position that the control and direction of the schools within their jurisdiction was primarily a political power which rested in those communities. They absolutely defied the State powers in many cases to carry on the work of education. These questions even under the present Constitution were brought into court and were definitely and completely settled in favor of the State. But although those particular questions were settled there remained a large range of matters which are brought forward as not being embraced within the purview of those decisions. It was in order to settle this point that this amendment was placed among those submitted to this Convention. As Mr. Schurman, chairman of the Committee on Education, has averred, the *Gunnison* case, reported in 176 N. Y., uses the broadest language in regard to that, and even at the risk of repeating what has been already stated, I should like to read to the Convention a few words.

The court says: "The only relation the city has to public education"—this was a case that arose in New York city—"the only relation the city has to public education is as the custodian and the depository of school funds, and its only duty with respect to that fund is to keep it safely and disburse the same according to the direction of its board of education. The city, as trustee, has the title to the money, but it is under the care, control and administration of the board, and all suits in relation to it must be brought in the name of the board."

"It is apparent from the general drift of the argument that the learned counsel is of the opinion that the employment of teachers in the public schools, and the general conduct and management of the schools, is a city function, in the same sense as it is in the care of the streets, or the employment of police, and the payment of their salaries and compensation. But that view of the relation of the city to public education, if entertained, is an obvious mistake.

"The city cannot rent, build or buy a school house. It cannot employ or discharge a teacher and has no power to contract with teachers with respect to their compensation. There is no contract or official relation, express or implied, between the teachers and the city. All this results from the settled policy of the State from an early date to divorce the business of public education from all other municipal interests and to take charge of it as a peculiar and separate function through agents of its own selection, and immediately subject and responsible to its control."

It is, therefore, a question of whether we should have one settled form of policy for education in this State, one settled method of carrying on the business of education, one settled aim and end to be attained to the education provided by the State and its officers, or whether we should have fifty-four different varieties of education in the various cities of this State, to say nothing of the communities lying outside of the city. That doctrine has been reiterated and repeated in various cases in this State, and it falls wholly within the analogies of similar declarations from other States.

Mr. Wagner — Are you contending now that the State should have absolute and complete control over the entire administration of the educational affairs of the city of New York including the financial administration of that department, such as the fixing of salaries, determination of the number of school teachers, the number and character of our school houses, and the amount which we should expend for their construction?

Mr. Shipman — Yes, but no department of this State yet has ever decided that the officers of the central body at Albany should have exclusive control as against the inhabitants of the locality affected; and when it comes down to finding out the source of power, to determine who is right in the last resort, who shall be obeyed as against another, the State is supreme in matters of education.

Otherwise, the community may starve out its teachers; it may deprive them, as is the case in New York city, of sufficient educational resources in the matter of buildings and school equipment. There must be some central authority to determine these questions in the last resort. It is in almost direct analogy with the courts.

The State administers the laws of justice within its boundaries, although the judges are elected from the various communities they represent, but they do not act in the name of those communities. That is an illustration of the point which I make here. A very clear explanation of this doctrine has been made also in the highest court in the State of Indiana. It was a case in which the relator, Clark, petitioned for the right of mandate to compel the trustees of Monroe township to certify to the county superintendent of schools the number of text-books required for children, and to procure and furnish such text-books. In that case the court said:

“The act assailed does not impinge in the slightest degree on the right of local self-government. The right of local self-government is an inherent and not a derivative one. It is the right which a man possesses in virtue of his character as a free man. It is not bestowed by the Legislature nor derived from statutes, but the courts, which have carried to its utmost extent the doctrine of local self-government, have never so much as intimated that it exists as a matter over which the constitution has given the law-making power a supreme control, nor have they gone beyond the line which separates matters of purely local concern from those of State control. Essentially and intrinsically the schools in which are trained the children who are to become the rulers of the Commonwealth are matters of the State and not of local jurisdiction. In such matters the State is the unit and the Legislature the source of power. The authority over schools and school affairs is not necessarily a distributive one to be exercised by local instrumentalities, but, on the contrary, it is a central power residing in the Legislature of the State. It is for the law-making power to determine whether the authority shall be exercised by a State board of education or distributed. With that determination, the judiciary can no more rightfully interfere than can the Legislature with a decree or judgment pronounced by a legislative tribunal.”

We are only asking that this amendment shall put in concrete form what does exist to-day in the laws of the State of New York. We have already done all these things. We have taken control of the schools so that the various boards of education — and when I say “board of education” I want to give the definition as it exists in the law to-day. It says, “The term ‘board of education’ shall include, by whatever name known, the governing body charged with the general control, management and responsibility of the schools of a union free school district or of a city.” So that would include any body charged with the administration of schools, and as such as administrators of the schools, they control the schools as agents and as delegated bodies of the State, which is the central authority. They do not exercise their jurisdiction by virtue of being representatives solely of a community, a city or a county.

Now, they have wide powers, and it will be unnecessary to recite them here, but they can be found in the Education Law; one of which makes them almost supreme in solely educational matters. They already are corporate bodies existing independently of the municipality.

Mr. J. G. Saxe — If all you put in the Proposed Amendment is that the city board shall be a corporation, it is perfectly possible for the Legislature to repeal all those powers.

Mr. Shipman — Yes, sir, and that is why we wish to continue — the object of the amendment is to continue beyond peradventure the high standards of education in this State. The Empire State stands foremost among the States of this glorious Union. It has brought education to the highest pitch; and the reports of the Commissioner of Education of the United States have pointed out that New York has systematized, progressed and advanced in the matter of education beyond any other State, and we want to keep it there.

We do not wish it to be subject to politics, to changing conditions, and to the control of the different municipalities of this State or any division thereof. It is with that purpose that we present this Proposed Amendment, that we may make permanent those things which are found to be so excellent in our school system.

Mr. Wagner — Is there not a change in politics in our State just as in our localities?

Mr. Shipman — There may be, but there has not been a change in politics, no matter what party has been in power in the last twenty years, which has sought to radically change the school system or the school policies of this State. On the contrary, both parties have united in that view of the question. Again, it is said that the words "supervision and control" indicate wider discretion which goes with the State, but on the contrary we wish the same sort of control to go on. In other words, the amendment provides that the State shall continue its supervision and control. We know what that means. We would not know what other words mean. We have our courts and we also have a body of legislation, and we have the continued practice of the Educational Department within the last twenty years. We are satisfied with that and we desire it to be perpetuated, and we desire it to be perpetuated beyond any cavil or dispute, so that the relative order of precedent, the relative power and authority of the various bodies which control education in this State may be exactly stated and defined. It is not that the State is to arrogate anything to itself, but it wishes to know beyond peradventure of doubt, in the case of a clash, or controversy, or difference of opinion, which is the superior. It already controls all of the schools of this State in a certain sense. It might be feared by some that the control would mean an

invasion of the management, financial power or of teaching and matters of that kind as conducted in the various private schools of this State; but, on the contrary, we are proud of our private schools, we are glad to see them flourish. All that we ask is that they, in regard to health, order and minimum of instruction, shall teach equal to the State, and that is the only control desired to be exercised in the measure in which it is exercised.

The State to-day in its Labor Law provides that a child of under fourteen years of age shall not be permitted to labor in factories unless it has had a minimum of education evidenced by a certificate from the schools and in this the State goes very broadly and provides that such a certificate shall be made, provides that a certificate shall be made by one of the teachers, or superiors of the schools, and shall state that the child has received over a stated period instruction in reading, writing, spelling, English grammar, geography, familiarity with the fundamental operations of arithmetic, up to and including fractions, and has completed the work required for the first six years of the elementary schools or the equivalent thereto, or private, parochial schools; and similar control is exercised in the Truant School Law, in which it provides that a child must go to school up to the time prescribed in the Labor Law, and it prescribes that such certificates shall be issued, made by the teacher, superintendent of public schools, or by the controlling authorities, or by the private and parochial schools, and the only control the State desires is that it shall see to it that the children in the various schools shall obtain education equivalent to the minimum prescribed by the education laws of the State of New York.

Mr. Franchot — I should like to ask whether it is the intent of this provision to prohibit the Legislature from conferring the power on localities in respect to the management of schools?

Mr. Shipman — It is not.

Mr. Wagner — I want to apologize for asking all these questions, but I want to get the real meaning of this. The question which Delegate Franchot just asked is the very one that I want to be enlightened on. You say, in answer to his question, I understood you to say, that it was not desired by this proposal to take from the Legislature power to confer the administration to a locality, the administration of its school system. Now, is not it quite clear by looking at this Proposed Amendment to the Constitution, that that is exactly what it does? Because you begin by saying that the State shall continue its supervision and control of the education of children, and I asked you a moment ago whether by "control" you meant the entire control, including financial administration, and your answer was that it did mean

that. Now, that is all there is to the local administration; and in your next sentence you say that no powers in derogation thereof shall be conferred upon the local authorities. So that in the first sentence you propose to give the State absolute control over the entire administration, as well as supervision of the public schools, in any locality, and then, in the second sentence, you say that the Legislature is prohibited from passing any law in derogation of those powers. You certainly prohibit the Legislature from conferring upon any locality any part in the administration of its schools. That is the way I understand it. That is what derogation of power means, as I take it.

Mr. Shipman — Will the gentleman consider for a moment the words in this amendment, carefully chosen — although I did not choose these particular words — it says that no powers in derogation thereof shall be conferred on the local powers of any civil division. That does not say that all powers of delegation shall not be conferred by the State when it chooses to delegate power. The simple thing is that no law can be enacted which will set aside the State's control of the public schools. It may share its power with other boards and other authorities — share them to a limited extent, exactly as this body or any legislative body may confer them upon a committee. But as for abdicating its power and stepping out of control altogether, this amendment is to the contrary.

Mr. Franchot — Are you not aware that if the Legislature should delegate the power, it would always have it in its power to take it back?

Mr. Shipman — Maybe; but as long as it stood it would be abdicating State control.

Mr. Franchot — If you do not mean that, it cannot delegate it at all, what do you mean by this language?

Mr. Shipman — That the State shall continue. Now we have an elaborate educational law which covers some 500 pages and there are your boards of education in the various divisions of this Commonwealth expressly defined. They are carrying all their powers to-day under this law and have been for the last twenty years.

Mr. J. G. Saxe — The difficulty which quite a number of us are having is that the language of this amendment is not exactly clear. In defining what you mean by "supervision and control" you have got to go to the Education Law and the rules in a dozen different places. What there is in the amendment is this: It says that something shall continue — supervision and control — making these constitutional words instead of in the common law, and when you look at the other amendment the only thing with reference to the local boards is that you make it a creature with

powers to raise money and spend money but nothing at all on the general supervision of schools; and it seems to me that instead of exactly stating something the amendment does not exactly state anything, but it refers us to a big educational law and rules—

Mr. Shipman — So does every section of the Constitution. You are supposed to know the law and things of that kind when you commence on the Constitution.

Mr. Wagner — Perhaps I have not made myself clear. I do not find the fault that Delegate Saxe does. I know what “supervision and control” mean, but now you are using after that the words “derogation thereof,” “and no powers in derogation thereof shall be conferred upon the local authorities”—now if the State should have absolute financial legislation and the Legislature should pass an act delegating that power to a local authority, that is giving power in derogation of absolute State control.

Mr. Shipman — No, it has the power to delegate. If the delegated authority is acting under power of attorney, it is simply the agent.

Mr. Wagner — Then why do you put in the words “in derogation thereof?”

Mr. Shipman — Simply that State control shall never be set aside; that it stands in the background, superior to any delegated power from time to time. In other words the power of the State over education in general shall never be abrogated, shall never be set aside. It may be delegated in part or may be set aside or parted with, to a certain extent, to an attorney who acts always in the name of the principal. That is the theory on which the education of this State has been conducted for the past twenty years, and is the theory on which we propose to conduct it for the further time that this Constitution goes into effect. It is for that reason we do not wish to disturb existing things but wish to continue them as they are continued to-day. So that they shall stand as a landmark so that future generations and people in control of the schools shall know the system clearly set forth in the Constitution by which it is governed and arranged. That does not prevent the State at any time—because all State functions have to be carried on by individuals or bodies created for it, but it does prevent the State at any time from delegating or prescribing the duties of a certain corporation or agency under its control and it stands at all times above such agency and above such attorney to see that its delegated or prescribed powers are carefully preserved. Otherwise the State is powerless in the matter of education; it is left to the nondescript bodies of every community throughout the State to say what they shall do in the matter of education. That would be a catastrophe to happen in this State because we would have no

central authority and no authority — as if a great army allowed each company to march according to its own step and perform such evolutions as it felt was right.

Now, as to the words "supervision and control," on which I was interrupted by my friends, it seems to me to be the real ideal not to interfere in any respect except that of decency, health and order with the numerous private institutions of learning throughout this State. We have never done so in the past and do not propose to do so for the future. In fact, the ideal system of education would seem to be where there can be competitive branches of education, that of the State carried on with its great facilities and available funds, and that of private institutions carried on so that we shall have a healthy competition between the two, so that anything in the matter of governing and educating youth may be brought forward to its fullest extent by continuing this system of making the State's schools better than ever before. And if in private schools we can educate better or educate even as well at a more considerable expense — that is one of the ideal systems to have in the State whereby the State can produce the best that is in it, and the private institutions can be spurred on to show that they are producing likewise the best, so that there is no reason that the State control should ever go farther than the general principle of producing results — healthy bodies, sane minds and adequate education.

Mr. Clinton — In considering Proposed Amendments to the Constitution, the question which arises first always is whether the Proposed Amendment introduces a change in the policy of the State in any direction; and if it does, whether that change is advisable in the interests of the people. If it does not do so, the question arises whether conditions are such that it is wise to reiterate or to give the people the opportunity to reiterate the powers of the State through a constitutional amendment. This amendment, as I read it, does not introduce a single radical change in our educational system. It is simply an announcement of the paramount control by the State over the policies which are to govern in education. If the delegates will read the present provision of the Constitution which is to be amended, they will see that the provision does not announce that paramount control at all. I have listened to questions put to the chairman of the Committee and to Mr. Shipman, as to the intent of the Committee. We have nothing to do with the intent of the Committee. It may be proper to put it on the Record, so that if any legal question arises in the courts, the intent of a portion of the Convention may aid the court in construing a doubtful question if it arises. I have listened to the questions put by Mr. Wagner, and those questions

are pertinent; those are the ones to be considered. That involves simply the question whether this amendment—there are two questions: first, whether this amendment is so worded that it goes farther than announcing what the courts and the people of this State have always regarded as the policy to be preserved, of the control of the State, not over the machinery of education, but over the policies which are to be imposed. I think Mr. Wagner has done this Convention a great service in asking the question. If there is any doubt about it upon this language, it should be amended. If there is no reasonable doubt on this language, it should stand, if we are willing to say, as I think we should say, that the people should have the opportunity of announcing whether the policy which has obtained in matters of education shall continue.

Now, I do not like to enter into a legal argument, but here, it seems to me, is the question. The first portion says—and it is very carefully worded—that, “The State shall continue.” It introduces no new idea. It shall continue the powers and the exercise of the powers which it now has. It shall continue, “its supervision and control of the education of children.” Now the question, of course, arises at once whether the supervision and control of the education of children means that the State is to go into the private schools, parochial schools, the management of schools in cities and other localities, or whether it simply means what it says—“shall continue its supervision and control.” The word “supervision” does not indicate at all that the State is to go into these particulars and wrest from private institutions or from local control the power of absolute determination of what salaries shall be paid, how teachers shall be selected or any of those details. But when you come to the word “control,” there a question arises. You say, “control.” That brings us to this proposition: The State now has that control. Does this provision mean that the State shall exercise that control by the interference which I have suggested? It does not, to my mind. We proceed a little farther. The Legislature can do that now. We proceed a little farther and it says that “no powers in derogation thereof shall be conferred.” There the suggestion arises which Mr. Wagner has presented, whether that language would prevent the Legislature from continuing the powers granted to localities or prevent it from legislating so far as private institutions are concerned, so as to confer any powers upon them. That is the question.

Mr. Wagner—Control over them.

Mr. Clinton—I have passed the word “control.”

Mr. Wagner—I mean whether we can confer any control upon any local authority.

Mr. Clinton — Yes; that arises under this clause, “in derogation.” It seems to me, Mr. Chairman, that in view of the fact that this Proposed Amendment simply announces a continuance of the present policy of the State in educational matters and the powers of the Legislature now existing, no court would say that it introduced a new principle which prevented the Legislature from continuing the policy which has been accepted as within its powers. If it did, if I had any idea that it did, I would not favor this amendment. It seems to me that it is too much of a refinement to say that this language curtails the powers of the Legislature. No court, looking at that and looking at the first line, it seems to me, could come to such a conclusion. “The State shall continue its supervision and control”—not that it shall be limited to its representatives in the Legislature in the exercise of the powers which it already has.

That brings me back to this simple question. It changes nothing. Is it for this Convention, or is it not, in view of the conditions existing, in view of the confusion which continually arises in the Legislature when bills are introduced affecting schools—is it or is it not a proper thing for us to present to the people a clause which shall stand in the Constitution as an announcement of the paramount power of the people, as represented in the Legislature, to supervise education? To me it seems that it is proper to do that; to me it seems that it will set at rest, one way or the other, when the people vote, the question whether the State shall have control of the policies to be pursued in the matter of education.

Now, Mr. Chairman, I may be wrong in my construction. I have had some experience in law, and what I may say may be entitled to weight or not, on the question of law, but I desire to reiterate that, in my opinion, there is not a word in this Proposed Amendment which limits the powers of the Legislature, or which goes farther than to declare a policy of the State which, to my mind, is correct.

Mr. Wagner — Just a question. Firstly, you say the State shall continue its supervision and control. Does that mean that the Legislature is prohibited from, in the future, conferring any greater power upon the State authorities of supervision and control than they at present control?

Mr. Clinton — In my opinion as a lawyer, it does not limit the powers of the Legislature in that respect.

Mr. Wagner — You continue the control now, don't you?

Mr. Clinton — The control exists now.

Mr. Wagner — Now, secondly—will the delegate yield for a second question? Suppose we adopted here an addition to this

proposal, if this should be adopted — a proposal giving a limited amount of home rule to municipalities — and one of the powers which we conferred upon the local authorities is complete control over its finances in such a way that the Legislature is prohibited from interfering with their financial administration. Will that carry with it the financial control of its school system within that municipality?

Mr. Clinton — I wish to say this, that I — and I believe with Senator Wagner and other members of this Convention — and I say without intending to cast any reflection upon the Committee on Cities — have been waiting with great anxiety to learn what they were going to formulate for us that would provide for home rule and not conflict with the sovereignty of the State. This does not conflict with home rule. If the report of that Committee — and you and I, Senator Wagner, have got to watch it — to see that it is so worded that there can be no such question as you suggest as between the final action of this Convention on home rule, and this provision. I do not believe that this provision now would conflict. I do not believe now it would conflict, because there is no derogation of the powers of the State to supervise and control education as that power now exists, by giving to cities entire control over the expenditure of their money, whether it is for schools or anything else, but I beg you to join with us when the Committee on Cities reports and carefully scrutinize their language.

Mr. Leggett — I do not know that I need to be ashamed to confess that my hold on the exact meaning of the intent and effect of the language employed in this proposal is rather slippery. It may, of course, be, and probably is, true that the Committee having this language in charge, and the gentlemen who have advocated its adoption here have a close and firm grasp of its exact intent, meaning and effect, but I believe I do not violate any confidence in saying that they have not made it clear to quite a considerable number of us. Now, as I understand the matter, they tell us that the supervision and control of the State in this matter of the education of children is now complete and satisfactory; that this language is not intended to change that, and necessarily, without impugning their good faith, it seems that they mean us to understand that it would not change it. The question arises immediately in my mind, then, of what good is it if it does not change it? If the State now has plenary and complete control of education, what is the particular object of saying so? But are they quite sure that by no possibility this does not make any change in the existing law and in the existing control of the Legislature? I wonder if they are. It seems to me that it is plain that it does one of two

things, that it does not change the power of the Legislature or that it does. Now, if it does not, it is frightfully nugatory. It does no good. The Legislature's control now is satisfactory. If it does change it, then in what respect does it change it?

It cannot enlarge it, it must restrict it. Now, is not that so? And if it does restrict it, in what way does it restrict it and is it desirable to restrict the power of the Legislature?

Questions have been asked as to whether the Legislature under this would be prohibited from delegating to local municipalities further control of the matter of education in any respect, and I believe the answer has been made that it did not. If that is so, then what is the effect of that provision that "nothing shall be done in derogation?" If it may further extend local control in detail, what is the effect? It practically has none. There can be no question under the present condition of things that if the Legislature does delegate details of management to the local municipalities, or any kind of detail in administration, if they are found unwisely administered under that method, that it can withdraw them.

Now, I submit that it is incumbent upon the gentlemen advocating this amendment to point out to us that it does not interfere with the plenary control that the Legislature now has of educational matters. I, by somewhat painful experience, have come to know that when you get anything into the Constitution, it is extremely difficult to get it out, and for that reason I am a little loath to vote anything into the Constitution unless I can concretely understand what the effect of it is.

Mr. Clearwater — The gentleman is entirely right in expressing a reluctance in voting any measure into the Constitution of the State, unless he fully understands it, and it was the effect and the hope of this Committee in crystallizing in lucid and compressed phrase the present and past policy of the State regarding education, to frame an amendment to the Constitution which could readily and easily be understood, not only by the distinguished delegates of this Convention, but by every citizen of the State of ordinary intelligence. Regarding his rather uncomplimentary characterization of this amendment as "slippery," it would seem to me that it is the reverse of "slippery." I challenge the gentleman to phrase this idea expressed in this amendment in a more forceful, more illuminative, more expressive phraseology, or in words better adapted to express its meaning, than those selected by the distinguished chairman of the Committee on Education.

Now, Sir, it is the policy of this Convention, first, to remedy such evils as our past political history has shown to exist, if they are susceptible of amendment by constitutional provision; but a

far worthier, far greater, far more important function of this Convention, Sir, is to frame a Constitution that will provide for the probable needs and necessities of the people of the State of New York for the coming twenty years. The object of this amendment, as was stated by the chairman of the Committee upon Education, is to place in the Constitution, beyond the reach of the Legislature, beyond the reach of these various communities of the State — which, in their aspirations for home rule, bid fair to set up a system of local self-government, unequalled, at least in this country — the object of this amendment, as I say, is to put into the Constitution a provision regarding the education of the children of the State which would forever prevent the perversion or diminution of the present and past policy of the State of New York regarding the education of its children. When you consider conditions confronting us to-day; when you consider the remarkable growth of population in the State of New York due to foreign immigration, as compared with the development and growth of population in other States, you can readily see, Sir, how it behooves the delegates to this Convention, in so far as human vision and foresight can assist, to guard the future.

Let us see. During the last ten years Minnesota has grown 19 per cent. in population; Kansas, 15 per cent.; Wisconsin, 15 per cent.; Nebraska, 12 per cent.; Missouri, 6 per cent., and New York, 25 per cent; 31.3 per cent. of the growth of the population in New York being entirely due to foreign immigration. We cannot foretell, Sir, what the future may bring forth, but framing the Constitution to-day, framing it for the future, it behooves us to so guard the education of the young, that it never can be assailed by any sinister influence not familiar with our customs and traditions. In answer to Senator Saxe, who asked why — or who suggested to Mr. Shipman that this amendment was ambiguous in its phraseology, that it did not decide, or did not express how the control should be exercised; let us see how much force there is in that.

“The State shall continue its supervision and control of the education of children as a State function, and no powers in derogation thereof shall be conferred upon the local authorities or any civil division thereof.”

Now, what did the framers of the first Constitution of this State, adopted at Kingston on the 20th of April, 1777; and what did the framers of the Constitution of 1846 insert in the Constitution?

A phrase equally vague, still vastly more important than this. Let me read to the gentleman the second section of the Constitution: “The trial by jury in all cases in which it has been heretofore used shall remain inviolate forever.” And the framers of that

section of the Constitution did not undertake to specify them. There are 1,400 decisions of the Court of Appeals stating in what cases, in what character of cases, trial by jury may be had. It certainly would not permit of putting them into the Constitution, and in the case of *Wynehamer against The People*, cited by the Court of Appeals in 13 N. Y., that court held that this phrase, this ambiguous phrase, preserved the right to trial by jury embraced in all cases where the right of trial by jury existed under the common law in England on the 20th day of April, 1777, and that it embraced all cases wherein the right of trial by jury had been had by act of the Legislature, by constitutional provision or by judicial decision, down to the time of the adoption of the Constitution of 1846.

Now, there is nothing vague, or elusive, and to use the word, the uncomplimentary adjective of my friend on my left, nothing "slippery" in this amendment. On the other hand, it would be difficult to find language more concise, more exact, more expressive of the idea intended to be expressed. The distinguished gentleman from New York, Senator Wagner, and my still more distinguished friend from Niagara county, Mr. Franchot, seem disturbed somewhat as to the question of home rule.

Well, Sir, if there be before this Convention, or its committees, a tenuous, diaphanous, or — I certainly would not say "slippery" but elusive idea, it is this very idea of home rule, which, so far as I am able to ascertain, has never been able to approach anything like exactness of expression. There is no intent to interfere with the liberties of communities; neither is there any intent on the part of this Convention to set up a number of principalities in the State of New York which will equal the Hanseatic league, because if we do, the Commonwealth will face the same conditions which existed under the Hanseatic league.

But, it has been the policy of the State from the beginning to treat the education of its young as a State function. Is there any more sacred duty devolving upon the present generation than that duty, and is there any more important duty devolving upon the delegates to this Convention than to place the discharge of that duty and of that function beyond the peril of assault, and that is the object of this amendment.

Mr. J. G. Saxe — I do not mean to take any decided position upon this amendment. I merely wish to suggest to the chairman of the committee and to Delegate Shipman, who were arguing in favor of it, that the wording might be made clearer. I understand that the amendment will not be pressed to a vote to-day, but in order to make it perfectly clear what I have in my mind I am going to move the following amendment: That on Print No. 749,

line 3, after the word "its" there shall be inserted the word "present;" so the first line will read: "The State shall continue its present supervision and control," and that on lines 4, 5 and 6, there shall be stricken out the words "and no powers in derogation thereof shall be conferred upon the local authorities or any civil division thereof;" and I suggest that when Print No. 757 is moved, that being the companion bill, we shall insert on line 5, after the words "every city shall have a board of education which shall be a body corporate and politic," the language "which shall continue its supervision and control of the education in such city subject to the present supervision and control of the State."

Mr. Clearwater — Mr. Chairman, I trust that so particular a grammarian as my friend will not insist upon his first amendment. It adds nothing to its force. It reads "continue its control," and to have it read "Continue its present control" would not add to its present force, and to insert the word "present" would be the addition of an unnecessary chronological expression.

Mr. Wagner — I understand that this is not to be moved to-day, so I reserve whatever I want to say about it until another day, but I would like to ask the distinguished delegate, Judge Clearwater, a question: Assume that this proposal should be adopted, and also that the elusive home rule provision shall finally come to us, including a provision giving municipalities absolute control over their finances and expenditures and prohibiting the Legislature from interfering with it; would you say that the home rule provision would give to a municipality control over the expenditure and finances of the school system within that locality?

Mr. Clearwater — I would only say, Senator, if you will permit me to reply in the language of Cæsar, when he was told by one of his generals that a certain bridge which they intended to cross in Helvetia would break through when they went upon it, he said, he would solve that question when he reached the bridge.

Mr. Wagner — I am afraid that is not satisfactory, Mr. Chairman, as an answer to those of us who are interested in New York city, and I think that those who are anxious to secure our votes on behalf of this proposal had better give us a more comforting answer than you have given us.

Mr. Clearwater — Well, sir, the answer was not designed to be comforting; it was designed to be disconcerting. Of course it would be utterly impossible to tell what the Cities Committee may report and what the Convention may adopt in regard to home rule. It is beyond a question, that if it is the desire of the Convention to frame that amendment to the Constitution, it shall provide that degree of home rule which is consistent with the dignity, prosperity and the rights of every community in the State. However,

I may as well say this. I may as well say, Mr. Chairman, now, and it may as well be understood by the delegates here: That during the many hearings before the Committee on Education, before which came not only the representatives of the city of New York, but the representatives of other great cities of the State, there was a distinct and avowed purpose by the municipal authorities to take control of the system of education in their respective municipalities.

Now, in so far as it is expressed in this Proposed Amendment, that education is a function of the State, we shall insist upon the amendment.

But, it is entirely possible for sensible men engaged upon a common purpose to agree upon such an amendment to the Constitution, which shall give to every municipality in the State that degree of home rule to which it is entirely entitled, and yet absolutely reserve the functions of the State. It is the function of the State to take care of all of the State institutions. Does not the State look after all its State prisoners? Does not the State look after all its insane? Does not the State look after its dependents of all character? And so, should not the State look after the education of its children? Nor has there ever been a time in the State of New York, or in any other State, when the State was willing to surrender, or should have surrendered a State function to any municipality, no matter how eager it was for home rule. And the difficulty is, Mr. Chairman, and I say it diffidently, that in this new American idea, in this worship of the gods of efficiency, economy, home rule, there is some danger that in our enthusiasm, or shall I say hysteria, we shall be carried beyond the bounds of common sense.

Now, when the Cities Committee reports this bill, there can be no doubt in my mind that the Convention will adopt such provision as will secure to municipalities a proper degree of home rule, but I sincerely question that it will adopt any constitutional provision which will be in conflict with the express purpose of the one which we are discussing, and if there be such a conflict, let me say with great precision of statement to my friend from New York, that I trust that what is expressed here will be the dominant provision adopted by the Convention.

Mr. Shipman — I think in order to clear up some of the confusion which seems to me to be apparent through the remarks of some of the gentlemen, that we should test these words in the second clause of the amendment by the converse, and we will see that it leaves a large latitude for action by the Legislature and by other bodies.

Now, take this: "And no powers in derogation thereof shall be conferred upon the local powers of any civil division." Take the converse of it: "and powers in conformity therewith may be conferred upon the local authorities of any civil division;" and you can see that they may have all the rational and reasonable powers that can be granted in the conduct of schools, but they can never set aside the permanency of the State in the management and control of school affairs.

Mr. A. E. Smith — If I understand aright, no motion is to be made to move this bill to-day out of General Orders. I would suggest to the Committee on Education and to the gentlemen that are conducting this proposition that between this day and the day when it is again up for discussion in General Orders, that there be given to the Convention some understanding of the meaning of the word "control" of the education of children. I think it is clear in the minds of a great many delegates just what supervision there is over the education of children. We know that the State Department of Education fixes a certain standard and that it does certain supervisory work. But, what control? I am, myself, unable to understand how far that control goes; and I would particularly for my own personal benefit, and probably for the benefit of more of the delegates, like to have explained how far that word "control" would go towards the management or interference, for the lack of a better word, by the State of private schools.

Mr. Clearwater — It does not interfere at all.

Mr. A. E. Smith — Now, I don't know. I am not sure. The Educational Department now exercises some degree of supervision over private schools, but no control. Now, are we by the terms of this amendment extending the power of the State Educational Department, so far as private schools are concerned?

Mr. Wickersham — With respect to the exercise of the supervision, is there not necessarily a certain control. As, for example, suppose the inspector of the board of education, or the Department of Education, finds fault with the standards maintained by the schools; doesn't it also require conformity to the standards established, and is not that control to a certain extent, and may not that be a part of the control as intended and as covered by the amendment?

Mr. A. E. Smith — No, I think that supervision can only be brought to the point where it can be controlled, when the school is registered under the Regents and the graduates therefrom must secure Regents' certificates.

Now, what concerns me the most is to find out whether that control can be stretched to the point that the State would have the authority at any time to tell a private school the character of

text books from which the children will study. That they have the right to do now, or may have the right to do, so far as the public schools are concerned.

Mr. Wickersham — One of the Proposed Amendments by Delegate Saxe was to insert the word "present" before the word "supervision." I understood Delegate Schurman to say that the meaning which the committee attributed to the Proposed Amendment was present supervision, or present supervision and control at present enjoyed and exercised. Now, without knowing, because I am not as familiar with the State Educational system as some others, this supervision and control as now exercised is what is intended to be perpetuated, as I understand, and nothing more.

Therefore, unless the supervision and control went beyond that which is at present enjoyed, would not the thought which you have expressed be inapplicable to the present proposal?

Mr. A. E. Smith — Well, that may be true. No doubt that improves that from my point of view. I can see that. But unlike Cæsar, in order that we may be sure of the stability of the bridge before we get to it, so that another route may be taken, to prevent us from marching up to the bridge and being compelled to march back again, I would like to have the committee consider writing in the amendment this definition of the word "control," or this limitation upon the word "control:" "Such control shall not mean the internal management of finances or the direction of private schools."

Mr. Wagner — I might suggest that while that takes care of the private schools, why a specific provision of that kind? Does not it mean that you lodge in the State the absolute control of the finances of the public schools as distinguished by this specification, and does not it further mean that you exclude everybody else?

Mr. A. E. Smith — Mr. Chairman, I am afraid that the reference to Cæsar and the bridge will have to be applied to the Senator's argument. I would like to see the home rule bill first.

Mr. Clearwater — That is the common ambition of all of us.

Mr. Wickersham — I move that the further discussion of this measure be suspended and that when the committee rise it report progress on this measure and ask leave to sit again, and request that the amendment offered by Mr. Saxe be printed for the information of the Committee of the Whole when it next resumes consideration of the measure.

The Chairman — All in favor of the motion made by Mr. Wickersham will say Aye, contrary No. The motion is carried.

The Secretary will continue the reading of the Calendar.

The Secretary — No. 752, General Order No. 23, by the Committee on Legislative Powers.

Mr. Barnes — Mr. Chairman, I have been requested not to move that by some gentlemen who wish to speak in opposition and I will not move it, therefore, in the Committee of the Whole.

The Secretary — No. 756, General Order No. 28, by the Committee on Taxation.

Mr. M. Saxe — On Tuesday I outlined in a general way the purpose of this proposed article on Taxation. I indicated at that time that the treatment of the subject is practically entirely new in the constitutional development of this State. At the present time there are practically no limitations with respect to the subject of taxation in the Constitution. The provision to be found in Section 18 of Article III, to the effect that the Legislature is prohibited from passing any local or private bill granting an exemption from taxation, is practically the only limitation on the taxing power in the Constitution, and that was only inserted by a special amendment passed some time after the present Constitution of the State. I shall proceed this morning to take up the sections of the article in their order.

Section 1 provides: "The power of taxation shall never be surrendered, suspended or contracted away." I think that that sentence is very clear and explains itself. The power of taxation "shall never be surrendered, suspended or contracted away." As a matter of fact, that clause has been a standard clause in the Constitutions of other states where the subject of taxation has been treated. We find in Arizona those exact words, in Section 1 of Article IX of the Arizona Constitution. In Arkansas we find these words: "The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State may be a party."

California, "The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party."

The Constitution of Colorado: "The power to tax corporations and corporate property, real and personal, shall never be relinquished or suspended."

In Georgia we find, "The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party."

In the Constitution of Idaho there is a similar provision.

In the Constitution of Kentucky a similar provision; also in the Constitution of Louisiana.

In the Constitution of Maine, "The Legislature shall never in any manner suspend or surrender the power of taxation."

In Michigan they have the exact language which we have proposed, and so as to the Constitution of Minnesota.

In Missouri they limit it to the power to tax corporations and corporate properties.

In Montana similarly to corporations and corporate property.

In North Dakota, "The power of taxation shall never be surrendered or suspended by any grant or contract to which the State or any county or other municipal corporation shall be a party."

In Oklahoma they use the words which we have proposed.

In Pennsylvania, "The power to tax corporations and corporate property shall not be surrendered or suspended by any contract or grant to which the State shall be a party."

In South Dakota, there is a sentence similar to ours.

In Texas they confine it to corporate property.

In Washington, they confine it to any contract to which the State shall be a party; and in Wyoming, they use the sentence used by some of the other States, "A contract to which the state or any county or other municipal corporation shall be a party."

Therefore, I think we have taken perhaps what is the broadest and the best sentence: "The power of taxation shall never be surrendered, suspended or contracted away". That is all-inclusive, I think; it concerns the State as well as any political division of the State.

With respect to the next sentence: "No property shall be exempt from taxation except as expressly provided by law". That is to make clear that the power of taxation shall be universal, excepting as property is expressly exempt from coming within the area of the exercise of the power. We must bear in mind that exempting from taxation does not arise only from statutes, which actually exempt property from taxation, but exemption arises in a great many other ways. It arises from defective legislation, from defective machinery. Now, we want to make it possible for the courts, when they are confronted with questions with respect to statutes of taxation and their scope — that they can plainly see by the Constitution that no property is to be exempt unless the law expressly provides that it is to be exempted.

I have in mind a case that came to the Court of Appeals some years ago, arising out of a very interesting situation in the city of New York. The assessors there sought to tax the seats of members of the Stock Exchange. In that particular case — I allude to the case of *Lemmon v. Feitner*, which is reported in 167 N. Y., page 1 — it so happened that they sought to assess the value of the seat on the Stock Exchange belonging to a non-resident, so that there were two phases of the question involved. But the courts there finally said that while a seat in the Stock Exchange was property, it was not personal property as defined by the Tax Law, and so very properly it decided that seats on the Stock Exchange

were not taxable under the Tax Law. Now, there may be very good reasons for not taxing seats on the Stock Exchange — I am not prepared to say that there are not — but I think it ought to be possible for the courts to have something to stand on when they come to the interpretation and construction of tax statutes which may not be so all-inclusive in their language as to leave it out of the possibility of reason to fix the tax upon certain things by reason of the general language employed. If we have that expression, that “No property shall be exempt from taxation except as expressly provided by law”, we will make it much easier for the courts to determine just what is reached and what is not reached by a statute seeking to tax property.

Now, proceeding to the next sentence: “Laws granting exemption from taxation, whether heretofore or hereafter enacted, shall be subject to modification or repeal.” As I stated the other day when we were discussing this subject in the Committee of the Whole, as a result of a number of questions that were asked me at that time, there is no intent in the language to change the law from what it is to-day. Well, then, I have been asked in private, what is the purpose of putting this into the Constitution? Now, there is a very good reason for putting things into the Constitution that have been determined by the courts, because when the common law reaches the point where it has satisfactorily solved a situation, it is a very good thing to put a milepost somewhere and keep it there, and I know of no better place than the Constitution for such mileposts. But there is a more specific reason. I commented the other day upon the Secured Debt Tax Law. I pointed out what I considered the unwisdom of that kind of legislation. I tried to make it clear that it was my own opinion that the law was not a contract and was repealable. But, irrespective of that, this sentence does no more or gives no more power to the Legislature than it would have with respect to that kind of legislation now. But I do want to prevent the possibility of that kind of legislation in the future, because I think it is unfair to the State and unfair to the people who take advantage of it, under the invitation that is extended by it, because it is my personal opinion that the strongest argument against the repeal of such legislation is the moral obligation. I do not want to see the revenue of this State determined upon such a thing as the moral obligation of the State. It ought to rest on a much firmer basis than that. And if we make it clear in the Constitution that an exemption which does not amount to a contract with the State is repealable, why, the question will at once arise when such legislation is under consideration, and it will be a deterrent — there will not be the desire to pass it, because people

will say, "We see no reason why we should take advantage of it; this may be repealed next year."

Mr. Wickersham — I understand Mr. Saxe to say, or I understood his argument the other day, that it was not his intention by this amendment, to impair the obligation of any contracts which might lawfully have been made, exempting from taxation in the past, and I presume that if, on a further study of the language, that should not seem perfectly clear, he would be willing to consider an amendment to make it clear.

Mr. M. Saxe — Certainly, because, Mr. Chairman, there can be no question that under the Federal Constitution we could not pass any legislation which would impair the obligation of a contract.

Mr. Wickersham — And I presume that he would not have us attempt to pass any such legislation.

Mr. M. Saxe — Certainly not.

Mr. Wagner — Do you mean by that to have the provision put into the Constitution, prohibiting the Legislature from repealing a statute affecting secured debts, upon which a tax might have been collected — is it your purpose to so tie the hands of the Legislature that they can never pass legislation affecting those cases?

Mr. M. Saxe — Certainly not. I don't understand your question. What I have said, I will repeat, that is, if the exemption amounts to a contract, as distinguished from a mere governmental policy, why, we do not seek to attempt to repeal such an act; but if it does not amount to a contract, the Legislature has a perfect right to repeal it when the exigency arises, and we continue that power.

Mr. Wagner — If it is a contract, you cannot impair it by any provision in this Constitution, can you?

Mr. M. Saxe — Certainly not.

Mr. Wagner — And if it is not, the Legislature has the right to repeal it?

Mr. M. Saxe — Certainly.

Mr. Wagner — Then how can anything in the Constitution help you on that score?

Mr. M. Saxe — That is what I tried to make clear, because people come up and say with respect to legislation of that kind, "There is a moral obligation here. Even though you have a right to repeal it, don't you do it. The State has entered into a moral obligation, because it has invited people to take advantage of it."

Now I want to take away the argument of the moral obligation, so that that cannot be used when such legislation is up for consideration. They will say to them, "You cannot say there is a personal obligation, because your Constitution expressly provides that exemption which is in the nature of a governmental policy only, and is contractual, may be repealed at any time."

Mr. D. Nicoll — Don't you think that states and governments ought to respect moral obligations?

Mr. M. Saxe — Decidedly I do; but I don't want their tax system to rest on that alone.

Mr. Wickersham — Is there not the further question which Senator Wagner's inquiry did not involve; that is, although the Federal Supreme Court would be the final arbiter as to whether or not the constitutional amendment constituted the impairment of the obligation of a contract, I take it that it is not the gentleman's intention that this Constitutional Convention should put itself in a position where it might be said that it intended, if it could, to impair the obligation of a contract.

Mr. M. Saxe — Certainly not.

Mr. Wickersham — And that, therefore, while declaring the repeatability of laws heretofore enacted, granting exemptions, it would not be his intention to make that repeal apply to contracts heretofore made in pursuance of those laws which did constitute contracts, whether the Supreme Court should say afterwards that what was attempted to be done was invalid or not; that the place to determine that question is here, so that no controversy may arise between this State and those with whom it has entered into contracts, to be submitted in the future to the Supreme Court — that, I take it, is also the intention of the gentleman.

Mr. M. Saxe — I think that is a fair statement. It is in order to make that a little clearer that I would like to read into the record an opinion by Mr. Justice Miller, in *New Jersey vs. Yard*, 95 U. S. 104.

“The principal function of a legislative body is not to make contracts, but to make laws. These laws are put into a form which, in all countries using the English language and inheriting the English common law, is called a statute.

“Unless forbidden by some exceptional constitutional provision, the same authority which can make a law can repeal it. The Constitution of the United States has imposed such a limitation upon the legislative power of all the States, by declaring that no State shall pass any law impairing the obligation of a contract. The frequency with which this court has been called on to declare State laws void, because they do impair the obligation of contracts, shows how very important and far-reaching that provision is.

“It may safely be said that in far the larger number of cases brought to this court under that clause of the Constitution, the question has been as to the existence and nature of the contract, and not the construction of the law which is supposed to impair it; and the greatest trouble we have had on this point has been in regard to what may be called legislative contracts,—contracts found in statute laws of the State, if they existed at all. It has

become the established law of this court that a legislative enactment, in the ordinary form of a statute, may contain provisions which, when accepted as the basis of action by individuals or corporations, become contracts between them and the State within the protection of the clause referred to of the Federal Constitution.

"The difficulty in this class of cases has always been to distinguish what is intended by the legislature to be an exercise of its ordinary legislative function in making laws, which, like other laws, are subject to its full control by future amendments and repeals, from what is intended to become a contract between the State and other parties when the terms of the statute have been accepted and acted upon by those parties. This has always been a very nice point; and, when the supposed contract exists only in the form of a general statute, doubts still recurred after all our decisions on that class of questions.

"These doubts are increased when the terms of the statute relate to a matter which is in its essential nature one of exclusive legislative cognizance, and which at the same time requires money or labor to be expended by individuals or corporations. In such cases, the legislature may be supposed to be merely exercising its power of regulating the burdens which are to be borne for the public service, in which case it could be modified from time to time as legislative discretion might determine; or it might be a contract founded on a fair consideration moving from the party concerned to the State, and which in that case would be beyond the power of the State to impair. Statutes fixing the taxes to be levied on corporations, partake, in a striking manner, of this dual character, and require for their construction a critical examination of their terms, and of the circumstances under which they are created.

"The writer of this opinion has always believed, and believes now, that one legislature of a State has no power to bargain away the right of any succeeding legislature to levy taxes in as full a manner as the Constitution will permit. But, so long as the majority of this court adhere to the contrary doctrine, he must, when the question arises, join with the other judges in considering whether such a contract has been made."

And, therefore, I say, if a contract has been made, this sentence does not apply, and it only applies in the case of statutes which reflect governmental policy and not contract.

We then proceed to the consideration of the third — or the fourth sentence of this question. "Hereafter no exemption shall be granted except by general laws and upon the affirmative vote of two-thirds of all the members elected to each House."

Now, the purpose there is to change the power of granting exemptions from the majority vote to a requisite two-thirds of all the members elected to each House. In other words, it is for the purpose of making it more difficult to obtain exemptions which, as it appears from our experience, have been very easily and most readily granted in the past, and, in view of the great amount of property that has been exempted from the tax rolls, we seek to make it more difficult to obtain extensions along that line in the future.

Now, that sums up the argument with respect to the first section of the article, and if there are any questions that any of the delegates desire to put at this time, before I pass to the second section, I should be very pleased to answer them as far as I can.

Mr. Schurman — For our information, I would like to ask if the Chairman of the committee can tell us what percentage of the taxable property of the State is now exempt from taxation. You spoke of the large amount. I should like to have you tell us what the percentage is.

Mr. M. Saxe — I have not the figures at hand, but I should say, very roughly, taking into account all the exemptions now permitted by statute, it approaches very close to 25 per cent. of the total assessed value — of real estate. I am speaking, because it is pretty hard to measure the proportion of personal property exemptions, as we have no evidence of the value of personal property in this State.

Mr. Schurman — That includes municipal property?

Mr. M. Saxe — Everything.

Mr. Wagner — Property of churches?

Mr. M. Saxe — Everything.

Mr. Schurman — Is the Chairman able to distinguish from private properties and federal and municipal properties?

Mr. M. Saxe — I haven't these figures at hand; I can get them very readily, if you want to wait for them.

Mr. Schurman — No, no.

Mr. M. Saxe — They are set forth in the last annual report of the Tax Commissioners, where a total statement of exemptions can be found.

Mr. Schurman — If you can give an approximate estimate, Mr. Chairman, that would answer. I did not mean to interrupt you at all. I beg you to pass it over if you have not that readily available.

Mr. M. Saxe — I think about 70 per cent. is public property and 30 per cent. private.

Mr. C. A. Webber — That is too much. It is less than 6 per cent. private. Less than 6 per cent.

Mr. M. Saxe — Of the total real estate?

Mr. C. A. Webber — Of the total real estate, private property exempted.

Mr. M. Saxe — Now, I am not sure that we understand just the classification that we are talking about. Suppose you make clear, Mr. Webber, what you include in the 6 per cent.

Mr. C. A. Webber — Of the total property of the State, less than 6 per cent. is exempted for private purposes, owned by private individuals. The rest that is exempt is owned by municipalities, by the State itself, and by the federal government.

Mr. M. Saxe — Well, Mr. Webber, aren't you referring to the full value of the property and not the assessed value?

Mr. C. A. Webber — The assessed value.

Mr. M. Saxe — I think you will find with respect to the assessed value that the percentage is much larger. With respect to the full value I think you are right, as regards 6 per cent.

Mr. C. A. Webber — The figures, according to the report of 1913, are the valuation of all real property, about eleven billion dollars, for the entire State.

Mr. M. Saxe — That is the assessed value.

Mr. C. A. Webber — The assessed value for the entire State, of real property, and the private exemptions are something over six hundred million dollars — not quite 6 per cent. of the eleven billion.

Mr. Leggett — If I may say so, I think the Convention may rely upon Mr. Webber's figures. I say, Mr. Webber, I think the Convention may rely on your figures.

Mr. Olcott — He is giving you a certificate of faith.

Mr. C. A. Webber — I thank you.

Mr. M. Saxe — Supposing we supply that information later for the purposes of the Record, because I think there is a little confusion in our thought. I am sure Mr. Webber, perhaps, is dealing either with full or assessed values in certain classes, and not with entire exemptions. But I will have these figures for insertion in the Record later on.

Now, with respect to the second section of the article, the first sentence reads, "Taxes shall be imposed by general laws and for public purposes only." Now, I think I covered the intent of that sentence in the preliminary statement made on Tuesday last. It is a phrase which is found in the Constitutions of several of the other States, and I will enumerate some of them, for instance, in California: "The Legislature shall not pass local or special laws for the assessment or collection of taxes; extending the time for the collection of taxes. * * *"

In Colorado: "All taxes shall * * * be levied and collected under general laws."

Delaware: "All taxes shall * * * be levied and collected under general laws." There is a similar provision in the Constitutions of Florida and Georgia.

In Idaho: "The Legislature shall not pass local or special laws for the assessment and collection of taxes. * * * All taxes shall be * * * levied and collected under general laws. * * *"

In Indiana: "The General Assembly shall not pass local or special laws for the assessment and collection of taxes for State, county, township or road purposes."

Iowa: "The general assembly shall not pass local or special laws for the assessment and collection of taxes for state, county or road purposes."

Kentucky: "Taxes shall be levied and collected for public purposes only * * *; and all taxes shall be levied and collected by general laws."

Maryland: "The general assembly shall not pass local or special laws in any of the following cases: * * * Extending time for collection of taxes."

Minnesota: "Under general laws."

Montana: "Taxes shall be levied and collected by general laws and for public purposes only."

Missouri: "Taxes may be levied and collected for public purposes only * * * and all taxes shall be levied and collected by general laws."

New Jersey: "Property shall be assessed for taxes on general laws."

Oklahoma: "Taxes shall be levied and collected by general laws and for public purposes only."

Oregon: "The Legislative assembly shall not pass special or local laws * * * for the assessment and collection of taxes for state, county, township or road purposes."

Pennsylvania: "All taxes shall be levied and collected under general laws."

South Dakota: "The legislature shall provide by general law for the assessing and levying of taxes on all corporate property."

Virginia: "All taxes shall be levied and collected under general laws."

Washington: "This section prohibits the Legislature from enacting any special or private laws for assessment or collection of taxes or for extending the time for collection thereof."

Wisconsin: "The Legislature is prohibited from enacting any special or private laws for the assessment or collection of taxes, or for extending the time for collection thereof."

So in that sentence we have merely taken what we thought was

wise from the Constitutions of other States to which I have alluded and I don't think there need be much discussion with respect to it.

Mr. Griffin — May I ask the gentleman what definition he attaches to the word "how" on the second line in the clause that reads, "The Legislature shall prescribe *how* taxable subjects shall be assessed," etc. What is the meaning of "how"?

Mr. M. Saxe — If the gentleman will bear with me, I will come to that sentence.

Mr. Griffin — Let me divide my question: Does the "how" have reference to the mere physical act of assessing property by the officers who are vested by law with the right to assess property, the methods which they may pursue in doing so or has it reference to the wider and deeper import as to what ratio they may use in the assessment of property?

Mr. M. Saxe — Now, if the gentleman will please bear with me, I have not yet come to that section, that is to that sentence of that section. I am coming to it, and if I do not answer that question in my discussion I shall be very glad to take it up specifically. The next sentence reads: "The Legislature shall prescribe how taxable subjects shall be assessed and provide for officers to execute laws relating to the assessment and collection of taxes, any provision of any other article of this Constitution to the contrary notwithstanding."

Mr. Wagner — Before you get away from the first sentence, could you tell me whether the words "For public purposes only" put a limitation upon the Legislature in reference to the imposition of taxes, which does not now exist?

Mr. M. Saxe — Certainly not. If the gentleman will turn to the Record of Tuesday, when we discussed the outline of this article, he will see that I gave a statement from Cooley on Taxation which clearly covered that. The question of a public purpose is entirely within the discretion of the Legislature, subject to the court.

Mr. Wagner — That is an important thing. Would the reason for taxation, for pension purposes, say, or for the payment of a contribution to a workmen's compensation fund, be a "public purpose?" Individuals getting the benefit?

Mr. M. Saxe — I will say in answer to that what I said in answer to the question of Mr. Parsons, of New York, which was a similar question, the other day.

Mr. Wagner — I did not know he asked that question.

Mr. M. Saxe — Yes; I assume that he is concerned with the same matter that the gentleman now is asking about. Just one moment and I will find that statement. I quoted from Volume 1, page 84, of Cooley on Taxation:

"It is the first requisite of lawful taxation that the purpose for which it is laid shall be a public purpose. The decision to lay a tax for a given purpose involves a legislative conclusion that the purpose is one for which a tax may be laid; in other words, it is a public purpose. But the determination of the Legislature on this question is not, like its decision on ordinary questions of public policy, conclusive either on the other departments of the government, or on the people. The question, what is and what is not a public purpose, is one of law; and though unquestionably the Legislature has large discretion in selecting the object for which taxes shall be laid, its decision is not final. In any case, in which the Legislature shall have clearly exceeded its authority in this regard, and levied a tax for a purpose not public, it is competent for any one who in person or property is affected by the tax, to appeal to the courts for protection."

Mr. Parsons asked: "May I ask whether it would affect the situation which was referred to by Professor Reeves the other day, when we were discussing the limitation on agricultural leases. He referred to the provision of the Tax Law which places a tax on leases for more than twenty-one years. Now, the object of that was to prevent the leasing of property for more than twenty-one years. Now, would that be a public purpose within this provision?" And I answered: "I can only answer that very generally, in the language of Mr. Cooley himself, that it is for the courts to determine. If it is the public policy of the State, why undoubtedly I should say that the courts would hold that it was for a public purpose."

Mr. Wagner — That is not my question.

Mr. M. Saxe — I understood your question to be quite similar.

Mr. Wagner — If the gentleman will yield again, I think those are not analogous questions or analogous subjects. My question has to deal with certain classes of individuals or even an individual and the Legislature may describe that as a public purpose and yet, it being a privilege really given to a certain class of individuals, it may be very difficult to assert that is a public purpose. What is your opinion as to that, as to whether on that such a levy would be for a public purpose?

Mr. M. Saxe — I have no particular opinion with reference to that specific matter. I should have to consider it before I uttered an opinion. But bear in mind, all we are seeking to do here is that taxes shall be levied for a public purpose and then by that, under the language of Mr. Cooley, the courts have the final say as to whether the objects sought for which the tax has been levied really is a public purpose, and I as an individual delegate heartily believe that that finality should lie with the court.

Mr. Wagner — If those words were not included in our Constitution, that question could be raised, could it, with reference to a tax levied for a compensation fund, for instance?

Mr. M. Saxe — I don't agree with you; I still think that the question of whether a tax is levied for a public purpose rests with the court even if the language is not in the Constitution. I think the question can still be raised; but I think it very wise to have it there.

Mr. Donnelly — Before you leave this sentence of Section 2 — you have read from other Constitutions and you have attempted, as I understand it, to place an analogy between those Constitutions and what is attempted to be read in here. May I call your attention to the fact that in most of those other States referred to by you, there is no classification of cities, such as there is in this State, and the term "general laws" means here application to cities, whereas in these other States where there is no city classification, the term "general law," or the provision to enact a special law has uniform application throughout the State. Isn't that so?

Mr. M. Saxe — I have always understood by "general law" one general in its language, even though it may only have a specific application. I have always understood the Rapid Transit Law, for instance, was a general law, yet it applies only to the cities of New York and Buffalo, so I think we need have no fear of the use of the words "general law" here. If the gentleman will be a little more specific as to just how he thinks it will affect certain cities, I will be glad to answer, if I can.

Mr. Donnelly — My point is there is no real analogy between the provisions of the Constitutions you have read and this proposed provision by reason of the fact that these other States have no classification into cities and, in fact, where other Constitutions provide for taxes under levy by general law, or prohibit enactment of special laws it is uniform throughout the State, whereas in this State it does not mean uniform application throughout the State, but gives the Legislature power to make one law for the cities and another law for the villages and counties of the State. Is not that so?

Mr. M. Saxe — I am not prepared to say that is so because I don't know of my own knowledge that any of the Constitutions to which I refer do not contain provisions with respect to the classification of cities; but I contend it is entirely immaterial; that our courts have determined what a general law is and this language is in the light of the decisions of our own courts.

Mr. R. B. Smith — The term "tax districts," used in this section, is that intended to eliminate state-wide taxes for local improvements which are assessed in each city for different cities

under varying and different rules? I speak of that for this reason, that the term "tax" as used in the Constitution now, has been held by the courts to mean a state-wide tax, and not taxes for local improvements assessed specially and locally.

Mr. M. Saxe — The gentleman is absolutely correct, as I understand the law.

Mr. R. B. Smith — Then should not we say "state-wide tax"?

Mr. M. Saxe — No, because the courts understand perfectly well that taxes relate to the purpose of raising revenue and not for local improvements. The courts have made that clear in a number of cases.

Mr. R. B. Smith — Why leave it for the courts to say? Why not say so?

Mr. M. Saxe — Because there is no confusion in the courts. Those who are very familiar with the subject are familiar with that. That is the only reason I can give; there is no confusion between "tax" and "assessment for local benefits;" that has been determined over and over again and the courts understand "tax" does not mean assessment for local benefits. Now coming to the second sentence which I read a moment ago, and which involves a question Mr. Griffin of New York asked, which I hope to reach in the course of my argument, it is very important that I have the attention of the delegates to this sentence because it marks one of the greatest advances in the progress of taxation in this State. It changes a fundamental concept of the law of taxation with respect to the home rule provision, and changes it very markedly, and therefore it ought to be very thoroughly understood. This is the matter which I alluded to in the outline, when I referred to the constitutional powers, so to speak, of the local assessors. I explained how, when the special franchise act was before the courts on the question of its constitutionality and the question was raised that having made a special franchise real estate and by taking away from the local assessors the power to assess special franchises and putting it in the State authorities, they were depriving the local assessors of their constitutional functions, the courts got around it very wisely by pointing out that a special franchise was a new kind of real estate, and that the local assessors had never exercised the function of assessment with respect to that kind of real property, and that therefore their constitutional function had not been taken away from them, because they had never had it.

I am going to allude to the decision of the Court of Appeals in the Special Franchise case, the Metropolitan Street Railway case and also the opinion of the Court of Appeals in the Westchester County case, which was decided only last month, because the same question was involved when they sought to centralize the

administration of the assessment and collection of taxes in Westchester county by doing away with the village assessor, and the Court of Appeals again pointed out that the village assessor was protected by the home rule provision of the present Constitution, Section 2 of Article X, and that they could not take away his functions and put them in the town assessor, no matter how advisable it might be; so I shall take up now the discussion of the Metropolitan Street Railway case, because the history of Section 2 of Article X and its effect is remarkably well treated in that decision. Judge Vann, in writing the opinion of the court in that case, treating of the history of the home rule provision with respect to taxation, said:

"The principle of home rule, or the right of self-government as to local affairs, existed before we had a constitution. Even prior to Magna Charta some cities, boroughs and towns had various customs and liberties which had been granted by the crown or had subsisted through long use, and among them was the right to elect certain local officers from their own citizens and, with some restrictions, to manage their own purely local affairs. * * *

"The rights thus secured after a long struggle and by great pressure, although at times denied and violated by the ruling monarch, were never lost, but were brought over by the colonists the same as they brought the right to breathe, and they would have parted with the one as soon as with the other. The liberties and customs of localities reappear on a novel and wider basis in the town meetings of New England and the various colonies, including the colony of New York. The right of the inhabitants of townships and manors to meet at stated times in public town meetings, elect town officers and transact town business, was well established while we were a colony and was recognized by different statutes enacted by the governor, council and general assembly. * * *

"The business transacted at the town meeting related to highways, care of the poor, and matters of purely local concern. It was confined to the affairs of a small district and was clearly separated from public matters of interest to the colony at large. The officers elected, generally by *viva voce* vote, were supervisors, assessors, collectors, constables, commissioners of highways and overseers of the poor. The powers and duties of these officers were regulated by statute, but the right to select them resided in the people of the locality and was stubbornly insisted upon as inviolable.

"Such was the state of affairs when the first Constitution was adopted. While that instrument organized the state, it granted no rights to the people, but was their own creation, expressing the restraints that they desired to place upon themselves by preserving certain principles and methods of government which they

wished to remain unalterable. Thus, the Constitution of 1777 recognized local self-government as already existing, and continued and protected it, so that it could not lawfully be departed from without changing the Constitution itself. It provided that 'town clerks, supervisors, assessors, constables and collectors, and all other officers heretofore eligible by the people, shall always continue to be so eligible.' (Sec. 29.) 'Sheriffs, coroners, loan officers, county treasurers, clerks of supervisors and justices of the peace were to be appointed.' (Secs. 26, 29.) Thus our earliest Constitution did not create the right to elect the administrative officers of towns, but continued it as it had existed during the history of the colony while it was under the dominion of the English crown. The only local officers mentioned by name as 'eligible by the people' were town officers, and in fact almost all officers of other local divisions were appointed by central authority.

"The second Constitution, framed in 1821, continued the right by the general clause, applicable to county, town, city and village officers, that 'all officers heretofore elected by the people shall continue to be elected; and all other officers, whose appointment is not provided for by this constitution, and all officers whose offices may be hereafter created by law, shall be elected by the people, or appointed, as may by law be directed.' (Art. 4, Sec. 15.) Sheriffs, coroners and some other county officers were for the first time made elective.

"The third Constitution, drafted in 1846, continued the principle and expanded the right by the following provisions: 'All county officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of the respective counties or appointed by the boards of supervisors, or other county officers, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.' (Art. 10, Sec. 2.) The same provision was carried forward, *ipsissimis verbis*, into our present Constitution. (Art. 10, Sec. 2.)

"These and other commands of the different Constitutions, when read in the light of prior and contemporaneous history, show that the object of the people in enacting them was to prevent centralization of power in the State and to continue, preserve and expand local self-government.

"This was effected through a judicious distribution of the power of selecting public officers, by assigning the choice of local officers to the people of the local divisions, and to the people generally, those belonging to the State at large. The management of the local political business of localities, whether as large as a county or as small as a village, is intrusted to local officers, selected by the communities where those officers act and through which their jurisdiction extends. The principle of home rule is preserved by continuing the right of these divisions to select their local officers, with the general functions which have always belonged to the office. Unless the office, by whatever name it is known, is protected, as the courts have uniformly held, the right to choose the officer would be lost, for with his former functions gone he would not be the officer contemplated by the Constitution, even if the name were retained. Unless the office or officer is mentioned, *eo nomine* in the Constitution, the name may be changed, or the office abolished, provided the functions, if retained at all, remain in some officer chosen by the locality. Local functions, however, cannot be transferred to a State officer. The Legislature has the power to regulate, increase or diminish the duties of the local officer, but it has been steadfastly held that this power is subject to the limitation that no essential or exclusive function belonging to the office can be transferred to an officer appointed by central authority. The office may go but the function must be exercised locally if exercised at all. While no arbitrary line is drawn to separate the powers of local and State officers, the integrity of the local office is protected, with its original and inherent functions unimpaired. It is interference, whether direct or indirect, with the vital, intrinsic and inseparable functions of the office as thus defined and understood that the Constitution prohibits. * * *

"The statute (the Special Franchise Tax Act) should be considered in the light of the circumstances existing when it was passed, which were extraordinary and unprecedented. The system thus created had never been known before, and, as its main subject, the act dealt with special franchises, which had never been taxed before. Property unknown as the subject of taxation to the framers of any of our Constitutions was brought into the system, which required new methods of valuation and the exercise of functions which had never belonged to local assessors. The property was *sui generis*, and from its nature could not be valued by local officers. Unless it escaped taxation in the future as it had in the past, it was necessary to commit the power to other officers with new functions, wider experience and greater opportunities for observation, who would be able to grasp the new scheme of

taxation as a whole. We should not be misled by the terms 'valuation' or 'assessment' as the simple exercise of judgment, for no work can be done without that, but should compare the intrinsic nature of the functions exercised by the local assessors for time out of mind with those intrusted to the State Tax Commissioners, which had never been committed to any board or officer before."

I ask that particular thought be given here to the language of Judge Vann, because what he says with respect to the special franchise tax is practically true about the personal property tax to-day, and for the very same reasons that the assessment of the special franchise tax was taken away from the local authorities and put into the hands of the State authorities, so the purpose of this provision of the proposed article is to make it possible, if desirable, to put into the hands of the State authorities the taxation of personal property in any of its forms. By section 2 of this article, we are taking away from the local assessors those functions which have clearly been pointed out by Judge Vann as being practically constitutional functions under the present Constitution. Later on, in Section 3, we have modified that so far as the assessment of real estate is concerned, but I will go into that later. But it is very important to appreciate all the thought that is contained in this opinion of Judge Vann. I see the Chairman looking at his watch, so I will merely finish this opinion and then we will suspend for the day.

"The local assessors dealt with tangible property, which could be seen and was open to the judgment of ordinary men, or with written evidence of debts or contracts the value of which could be easily computed. It was their habit to measure, weigh and count; to learn the market value from current sales; to pass upon physical and material property which they were accustomed to own, rent or use, and with which they were familiar in their daily life. They saw it, knew it and could judge as to its value, it was before their eyes and they could act upon it directly, without resort to complicated computations."

Just bear that language in mind in connection with the attempt to-day to assess personal property throughout this State.

The opinion goes on:

"On the other hand, the valuation of special franchises had never been attempted before, but presented a new field of action and called for the exercise of new and different functions. They could not be seen, handled, measured, weighed or counted. They were specialties and had no market value. There were no sales to guide and no experience from ownership, rental or use to rely upon. The new property is real estate in name, but not in reality,

for it is a mere privilege to do something in public streets and places not permitted to citizens generally. While local in a narrow sense it is unconfined in its real nature, for it depends largely on the earning capacity of a going concern, frequently with several special franchises, but with no means of determining the amount earned by each."

As to the rest of the opinion, it deals specifically with the special franchise tax, and I do not think that we need it any further for the consideration of the sentence presently before us. When I come to the discussion of the Westchester County Act as decided by the Court of Appeals, we will see this point emphasized still further, and we will see, in order to establish and develop these county systems of assessment and collection, that we must change the effect of the home rule provision so far as the local assessor and the local collector are concerned, and that is the main import of this second sentence in Section 2. With your permission, Mr. Chairman, I will suspend now, because we will have to debate this at still greater length at some later time.

Mr. Griffin — Mr. Chairman, before the motion to adjourn for the day is made, I beg leave to offer the following amendment:

Page 2, Section 2, after the word "only", on the second line, insert the words "All valuations of property for purposes of taxation or assessment throughout the State and in every subdivision thereof shall be upon a uniform basis, to wit, the fair market value thereof."

Also on page 2, line 4, after the word "taxes", strike out the comma and the following words, "any provision". On line 5, strike out the entire line. In line 6, strike out the syllable "ing". On line 6, after the word "supervision" strike out the comma and insert the word "and". On line 7, strike out the words "and equalization".

Mr. M. Saxe — Mr. Chairman, I only want to say that such an amendment would, of course, defeat the whole purpose of Section 2 of this article, and let me say to the delegates present that this section was very carefully considered by the Committee on Taxation. This whole subject was under careful study by every member of that committee, with the exception of two gentlemen who were ill, since this Convention convened, and we reported this article by a vote of fifteen to one. I think we gave very careful consideration to the language. The purpose of every sentence was very carefully explained, and I would rather see a motion made to strike out the whole section than one which simply attempted to knock it out by amendment piecemeal.

Mr. Olcott — Don't you think the words that Senator Griffin wants to be stricken out, "any provision of any other article

of this Constitution to the contrary notwithstanding", should be removed, and perhaps something substituted for them? It has occurred to me very strikingly that that was not constitutional language, was not language you would like to put in the Constitution, was almost the language of non-revisionists, if not of laziness — I don't mean laziness on your part. I appreciate the devotion to this duty that you have shown, but we do not want to have the confusion with that omnibus and confusion-rectifying sentence which we have in more careless language or action, and I only say that at this point, if Senator Saxe will let me add, because I entirely hold with you that your work has been specific and serious and very expert, and that from you, if possible, should come any verbal changes that may appear to some of us to be required, and I ask you to carry that in your mind until the next time this matter is brought up.

Mr. M. Saxe — I want to say, in reply to the gentleman from New York, that we did consider that language very carefully, but we wanted to be so sure that we were getting around the provisions of Section 2 of Article X, that home rule provision, placing local assessors and local collectors in the Constitution, so that you can't change their offices in any way, so you can't take away the exercise of those functions, so as to centralize even to the smallest degree — while we have no pride of opinion as to the language, we wanted to make it absolutely clear as to that section particularly and any other similar section that might be introduced as a result of the home rule bugbear which seems to be troubling all of us — for that reason we took that phrase.

Mr. Wickersham — Mr. Chairman, I move the committee do now rise, report progress and ask leave to sit again. In connection with that, may I give notice that I shall to-morrow, in Convention, move that we go into General Orders.

The Chairman — Gentleman, you have heard the motion. All in favor of the motion will signify by saying Aye, those opposed No. The motion is carried.

(The President resumes the Chair.)

The President — The Convention will come to order.

Mr. M. J. O'Brien — The Committee of the Whole has deliberated on several propositions which have been presented to it, and has here a report of its conclusions. They have also, I beg to announce, made progress, and ask leave to sit again.

The Secretary — The Convention resolved itself into Committee of the Whole and proceeded to the consideration of General Orders, being Proposed Amendment No. 749, from the Committee on Education; also No. 756, by the Committee on Taxation. After some time spent therein, the President resumed the Chair,

and Mr. M. J. O'Brien, from said committee, reported progress and asked leave to sit again.

The President — The question is on granting the leave to sit again. All in favor of granting leave will say Aye, contrary No. The Ayes have it, and the leave is granted.

Mr. Coles — I find it will be necessary for me to attend to some business outside of Albany on Monday and Tuesday next, and I request permission to absent myself from the sessions of the Convention on Monday, Tuesday and possibly on Wednesday morning.

Mr. Olcott — I move that the permission be granted.

The President — All in favor of granting the leave of absence requested will say Aye, contrary No. The leave is granted.

Mr. Latson — Mr. Blauvelt has requested to be excused from attendance for the balance of the week because of the death of a near relative.

The President — All in favor of granting the excuse asked in behalf of Mr. Blauvelt will say Aye, contrary No. The excuse is granted.

The Secretary will make announcements.

Mr. Wickersham — Mr. President, I move that we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 1:20 p. m., the Convention adjourned, to meet at 10 a. m. Friday, July 30, 1915.

FRIDAY, JULY 30, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Spencer S. Roche.

The Rev. Mr. Roche — Most gracious God, we humbly beseech Thee as for all the citizens of this State, so especially of this Constitutional Convention here assembled, that all things may be ordered and settled by their deliberations, that peace and happiness, truth and justice, religion and piety may be established among us for all generations. Grant, we beseech Thee, that Thy blessing may continue to rest upon this State and upon the United States of America, upon our President and upon the Governor. Grant, oh Lord, we beseech Thee, that this State and this Nation may be strengthened against all that would injure. Show Thy pity, we beseech Thee, upon all those lands where havoc and disaster now rule. And grant, oh Lord, that the time will come when

mankind shall dwell together in peace, in freedom and in meekness. Oh, gracious God, hasten the time when righteousness shall cover the earth as the waves cover the sea. All of which we ask in the name and through the mediation of Jesus Christ, Our Most Blessed Lord and Saviour, Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal is approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from the department of legislation of the city of Utica, which will be referred to the Committee on Cities.

Communications from the Governor and other State officers.

The Chair lays before the Convention a communication from the Superintendent of Public Works, in response to a request by the Convention, which will be referred to the Committee on the Judiciary.

Notices, motions and resolutions.

The Secretary will call the roll of districts.

Mr. Tanner — Mr. President, I offer the following resolution and move its adoption.

The Secretary — By Mr. Tanner: Resolved, That Charles H. Clark be, and he hereby is, appointed drafting clerk to the Committee on Revision and Engrossment at a compensation of \$10 per day, said appointment to date from August 3, 1915.

The President — Committee on Contingent Expenses.

Mr. Quigg — Mr. President, I move that when the Convention adjourn to-day it adjourn to meet on Monday night at half-past 8 o'clock and I ask that consideration of the motion be deferred until just before adjournment in order that we may see what the proceedings of to-day have been.

The President — Without objection, that course will be followed.

Mr. Bunce — Mr. President, I would like to be excused from attendance at to-morrow's session on account of an important business engagement.

The President — All in favor of granting the excuse will say Aye, contrary No. The excuse is granted.

Mr. Fancher — May I ask to be excused to-morrow on account of other business?

The President — All in favor of granting the excuse requested by Mr. Fancher for to-morrow will say Aye, contrary No. The Ayes have it and the excuse is granted.

Mr. R. B. Smith — I move that the Committee on Revision be discharged from further consideration of Proposed Amendment

No. 734, that it be amended as indicated, reprinted and recommit-
mitted.

The Secretary — To amend No. 734, Int. No. 291, as follows:
Strike out "extraordinary" and insert "voluntary".

Page 1, line 4, after "motion" insert "in the manner to be
provided by continuing the joint rule."

Page 1, line 7, after "motion" insert "in the manner provided
by continuing the rule."

The President — The question is on the motion by Mr. R. B.
Smith to discharge the Committee on Revision from further consid-
eration of Amendment No. 734, to be amended as indicated,
reprinted and recommitteed.

All in favor of the motion will say Aye, contrary No. The
motion is agreed to.

Mr. R. B. Smith — Mr. President, I move to discharge the
Committee on Cities from further consideration of Amendment
No. 721; that the same be reprinted as indicated — amended as
indicated, reprinted and recommitteed.

The President — All in favor of the motion by Mr. R. B.
Smith to discharge the Committee on Cities from further consid-
eration of Amendment No. 721, to amend as indicated, reprint
and recommit, will say Aye. All opposed, No. The Ayes have it
and the motion is agreed to.

Mr. Leggett — I ask to be excused from attendance on Satur-
day and Monday on account of my business engagements which
will require my attendance at home.

The President — All in favor of granting the excuse will say
Aye, opposed No. The Ayes have it and the excuse is granted.

Mr. Wood — I offer the following resolution and ask that it be
referred to the Committee on Contingent Expenses.

The Secretary — By Mr. Wood: Resolved, That Harmon J.
Norton be granted a leave of absence for ten days with pay on
account of illness contracted in the service of the State.

The President — Referred to the Committee on Contingent
Expenses.

The President — Reports of standing committees.

Mr. Steinbrink — Mr. President, when the sixth district was
called I was not paying attention. May I now ask to be excused
from attendance to-morrow?

The President — Mr. Steinbrink asks to be excused from at-
tendance to-morrow. Is there objection? Without objection the
excuse is granted.

The President — Reports of standing committees. The Secre-
tary will call the roll of committees.

Mr. Dow — Mr. President, I present the following report.

Mr. Angell — Mr. President, if this is the proper time I wish to offer a supplemental report from the minority of that Committee.

The President — The gentleman will present the minority report to the desk.

Mr. Angell — Mr. President, it is not a minority report in the sense that it is in opposition to the report of the Committee, but it goes farther, in that it seeks to give to the proposed Conservation Commission greater discretionary powers than are favored by the majority.

Mr. Whipple — Mr. President, I wish to offer a minority report of the Committee on Conservation of Natural Resources, and this report does find fault with, and make objections to, the majority report. I would like to have it read with the majority report, put on the General Orders calendar and considered with the main report.

Mr. Austin — Mr. President, to show the united concert of this Committee, I also wish to submit a minority report.

The President — The Secretary will read the report of the Committee, and then read the several minority reports in the order of their presentation.

The Secretary — Mr. Dow, from the Committee on Conservation of Natural Resources, to which was referred several Proposed Amendments, reports by Proposed Amendment.

By the Committee on Conservation of Natural Resources.
Proposed Constitutional Amendment.

Second reading — To insert in the Constitution a new article in relation to the Conservation of Natural Resources.

The President — There is too much confusion in the Chamber. The Chair is sure it must be difficult for the members who wish to hear the report to hear it.

The Secretary — The Committee on Conservation of Natural Resources herewith presents the following reasons in support of its report. The Committee was called upon to consider two basic questions: First, the determination of the policy of the State in respect to the preservation of its Forest Preserve; and second, the administration of all the natural resources of the State, free from political interference. In respect to both of these fundamental propositions and to the numerous incidental propositions that have been presented to it, the Committee has held public hearings and executive sessions; has fully considered all amendments referred to it, and all suggestions made to it; and, after thorough deliberation, has reached the conclusions embodied in its report. The

propositions submitted to the Committee on Conservation, and from which they have drawn suggestions, were as follows:

No. 10, by Mr. C. H. Young; No. 25, by Mr. Whipple; No. 37, by Mr. R. B. Smith; No. 71, by Mr. C. H. Young; No. 84, by Mr. E. N. Smith; No. 129, by Mr. Austin; No. 154, by Mr. Dunlap; No. 207, by Mr. McKean; No. 220, by Mr. Bunce; Nos. 128, 247, by Mr. Austin; No. 299, by Mr. Bannister; No. 316, by Mr. Baldwin; No. 375, by Mr. Dow; No. 382, by Mr. Baldwin; No. 445, by Mr. Meigs; No. 450, by Mr. Greene; No. 492, by Mr. Dow; Nos. 584, 585, 586, by Mr. Angell; No. 647, by Mr. Leary.

The Forest Preserve. As to the policy of the State in respect to the Forest Preserve, your Committee adopts the following language of the report of David McClure for the Committee on Forest Preserves, made to the last Constitutional Convention, under date of August 23, 1894, and reading in part as follows:

"That your Committee has reached the conclusion that it is necessary for the health, safety and general advantage of the people of the State that the forest lands now owned and hereafter acquired by the State, and the timber on such lands, should be preserved intact as forest preserves and not under any circumstances be sold."

Your Committee thus reports the present language of Section 7 of Article VII of the Constitution relating to the preservation of the Forest Preserve as wild forest lands, with the exceptions that it recommends that the Department of Conservation be "empowered to reforest lands in the Forest Preserve, to construct fire trails thereon, and to remove dead trees and dead timber therefrom for purposes of reforestation and fire protection solely; but shall not sell the same." This exception, in the opinion of the Committee, will prepare for reforestation and more adequately protect the State forests from destruction by fire.

Administration. In determining the question of administration, your Committee was called upon to deal with considerations which are peculiar to the question of conservation. It seemed necessary that your Committee should provide for continuity of policy and freedom from political control, which in their opinion is indispensable to proper management of the Forest Preserve. They deemed that these ends could best be secured by an unpaid board which, from the nature of the work and the opportunity for State service it offers, would attract to it men of a type whose services no salary could secure. Such a board will be deliberative in function, and will shape the policy of administering the natural resources of the State, in response to public sentiment, and for the best interests of

the State as a whole. By appointing commissioners for overlapping terms of nine years, and providing that they can only be removed by the Governor on charges, permanency of personnel and continuity of policy are secured. By specifying that each judicial district in the State shall be represented on this board, every portion of the State has its spokesman, and as a consequence the people as a whole will feel that their voice may be heard, and thus public confidence and support will be better guaranteed. Extensive reforestation is provided for, in order that the large tracts of State-owned land, now bare, may be reclothed with forests, to the improvement of the water holding capacity of the soil and the enhancement of the Forest Preserve as park and recreation ground. The practice of forestry throughout the State is encouraged and the department given discretionary power to promote forest management upon the large areas unsuited to agriculture. The purchase of additional lands within the blue lines which bound the forest parks within the Forest Preserve is not only recommended, but a plan for securing funds for such purchases is provided.

Systematic purchasing of lands within the blue lines would consolidate the present holdings, making administration more economical, and at the same time secure control of lands upon whose forest cover depends the regular flow of our most important streams, and insure perpetuation of the water supply of the State and its municipalities. By making it possible, if deemed advisable, to extend the fire protection system to include the entire State, your Committee feels that it is providing for the safety of forest lands. Most sections of the State have suffered heavily in the past from forest fires through lack of an efficient protective organization. In such cases, this Department may, at the solicitation of citizens or acting upon its own discretion, install a local State fire warden for the purpose of preventing and suppressing such forest fires. Concerning the regulatory powers of this Department, your Committee deems it advisable to empower it to enact the necessary rules and regulations concerning fish, game, birds, shellfish and crustacea, subject to the veto of the Governor. This power should not only enlighten the load of the Legislature to a considerable extent, but also result in less confusion and better co-ordination of the fish and game laws, with increased efficiency and equity. Regarding the personnel, civil service regulations are to be enforced, with the exception of the superintendent, emergency employees and laborers. The existing provision permitting the use of 3 per cent. of the Forest Preserve for water storage purposes is retained without any change whatever, as is the provision that any citizen may bring an action for violations of the provisions of this article (the final clause of Section 7).

To avoid inflicting hardships upon communities and individuals who have for years occupied lands now belonging to the State, the Department of Conservation is given discretionary power to issue licenses to occupants of that class. These licenses are revocable and are limited to cases where occupancy commenced before December 1, 1909, and to permanent residents. The final change to be mentioned is the one whereby the city of New York may use for water supply purposes three small specified tracts owned by the State in Greene and Ulster counties. Such use is felt to be of necessity to the city, and by clearly specifying the parcels in question, no extensive easements are granted.

The majority report is signed by all the members of the Committee, except Mr. Whipple.

Messrs. Dow, E. N. Smith, Clinton, Marshall, Dunlap, M. J. O'Brien, Leary, and J. G. Saxe sign without restriction.

Messrs. Landreth, Meigs and Angell reserve the right to dissent as to the limitations placed upon the powers of the Department.

Messrs. Rhees, Bannister, Austin and Baldwin reserve the right to dissent from the provision for a mandatory appropriation, and Mr. Austin also from the form of administration.

Signed by: Charles M. Dow, Chairman; Edward N. Smith; George Clinton; Louis Marshall; Rush Rhees, reserving right to dissent to mandatory appropriation; Olin H. Landreth, reserving the right to dissent to the limitations placed on the powers of the Commission; Ferris J. Meigs, except for the too narrow limitations placed on some of the discretionary powers of the Department; H. Leroy Austin, by dissenting as to the nine-headed commission and mandatory appropriation for reasons which I will state; Wm. P. Bannister, reserving right to dissent to mandatory appropriation; Edward M. Angell, being in favor, however, of broader powers in the Commission; Arthur J. Baldwin, reserving the right to dissent to mandatory appropriations; M. J. O'Brien; Timothy A. Leary; George A. Blauvelt, reserving the right to dissent; John G. Saxe.

The President — The Secretary will read the minority report presented by Mr. Angell.

The Secretary — Supplemental statement relating to the restrictions placed on the discretionary power of the Conservation Department as proposed by the Committee on Conservation of Natural Resources. The undersigned members of the Committee on Conservation of Natural Resources, while in hearty accord with all the provisions of the majority report, disagree with the conclusion of the majority of the Committee that none of the restrictions of use in the present Constitution should be relaxed.

We believe that the limitations in the majority report are too restricting in their effect upon the operations and do not offer an opportunity for the proper development of the State's natural resources.

The Committee has reported a plan for the organization of the Department along lines which should insure continuity of purpose, free from partisan control, by men of high character, whose sole purpose will be to serve the best interests of the State in the preservation, the development and enhancement in value of its natural resources. We believe that they should be entrusted by the people with the duty and the power to work out the problems before them, and to that end they should be given greater latitude under the Constitution — a latitude which will enable them to exercise their discretion in many particulars upon important questions of policy. The majority seem to believe in prohibition of use. We believe in protection and conservation, and conservation is not prohibition. We favor making provisions in the Constitution which will permit, under rules and regulations to be fixed by the Conservation Department, the following:

First. The building of highways in the Forest Preserve.

Second. The leasing of camp sites of limited area for limited periods on restricted portions of the Forest Preserve.

Third. The sale by the State of lands in the Forest Preserve outside of the Adirondack and Catskill parks, except the land contiguous thereto and the islands in and the lands adjacent to Lake George.

Fourth. The classification of the lands of the State in the Adirondack and Catskill parks into two areas, one of which shall be forever held as wild forest lands, and which shall include the lands upon the mountain tops and the lands in and around the lakes and major streams, and such other lands as for any reason the Commission shall determine should be so classified; and the second area to include all the other lands of the State within said parks, with a provision that the Conservation Department may cut, sell and remove any part of the timber thereon which is mature or detrimental to forest growth, in accordance with the principles of scientific forestry, and for the purpose of increasing the growth of the forests. Such lands, however, to be forever kept as forest lands and the forest cover thereon to be maintained and perpetuated. Our reasons for desiring to incorporate the foregoing provisions in the Constitution are as follows:

First. Under the provisions of the present Constitution and under the Proposed Amendment proposed by the majority of the Committee it is impossible to build highways in the Adirondacks or Catskills through or upon the lands of the State. These

lands are owned by the people and should be made accessible to them so that they may more easily go there for health and recreation. The forests should not be locked from access to the majority of the people of the State. Such highways would, in addition, furnish the best possible fire protection because they would be broad fire lanes and besides would enable the forest rangers quickly to reach the locality of the fire and extinguish it before it has acquired headway.

Second. The leasing of camp sites should be permitted for largely the same reasons. The Adirondacks and Catskills should be opened to the use of the people of the State by leasing to them camp sites of a limited area and for a limited time. This would not only be a means of substantial revenue to the State but would furnish during the time most needed a fire-fighting force. Fires are less frequent where camps are occupied, for campsite lessees would become interested in seeing that no fires devastated their camps, and they would thereby furnish a great protection to the property of the State.

Third. The State owns about 250,000 acres outside the Adirondack and Catskill parks in isolated areas where they serve no useful purpose but are a constant and increasing expense to the State. The Conservation Commission and practically every organization and individual in the State interested in this subject have, for many years, advocated the sale of these lands and the devotion of the proceeds, estimated to be not less than \$1,000,000, to the purchase of other lands within the Adirondack and Catskill parks.

Fourth. Lands in the Adirondack and Catskill parks should be classified by the Conservation Department into areas as above outlined, one of which should be held as wild forest land, and the other as utilization forests.

The State owns approximately 1,800,000 acres in the Forest Preserve, an area larger than the State of Delaware and about half the size of Connecticut. It is fair to say that 1,250,000 acres of this area are covered by heavy forest growth. The average annual growth is estimated by competent authority to be 200 feet per acre, or an aggregate annual wood crop of 250,000,000 feet of lumber, worth approximately \$1,000,000. This is now an absolute economic loss to the State, for an amount equal to the annual growth annually falls from decay and its value is gone forever. Under proper forest management the annual growth could be taken each year and still the necessary forest cover maintained. This would mean the removal annually of not over 2 per cent. of the trees standing on the lands. The growth and quantity of forest trees would be increased, and the value of the Forest Preserve for water storage purposes be undiminished. If the part

to be set aside in the first area to be forever held as wild lands on which no cutting should be allowed be estimated at one-third to one-half of the whole area the above estimate would be decreased to \$500,000,—the amount asked for annually by the Committee. The carrying charges of the Forest Preserve are not less than \$365,000, exclusive of the interest on the amounts paid by the State for these lands.

The Conservation Department has for years advocated a change in the Constitution which would make unnecessary this vast economic waste.

The platforms of the Republican and Democratic parties for the year 1914, upon which platforms all the delegates to this Convention were elected, demanded a change. The Camp Fire Club of America, the Association for the Protection of the Adirondacks, the Empire State Forest Products Association, the Committee of Engineers, representing national and local professional engineering societies, and many other associations and individuals having knowledge of the subject, and no personal interest, have advised a procedure similar to that here advocated. The Legislature of the State at its last two sessions has passed a concurrent resolution as a Proposed Constitutional Amendment, as follows:

“The prohibition of Section 7 shall not prevent the cutting or removal of mature, dead or fallen timber or trees detrimental to forest growth, on lands constituting the Forest Preserve, nor the leasing of camp sites and the construction of roads and trails necessary for protection against fire, and for ingress and exit. The Legislature may authorize the sale of lands outside the limits of the Adirondack park and the Catskill park as such parks are now established by law. The proceeds of such sales of lands shall be set apart in a separate fund and used only for the purchase of lands or for reforestation in such parks.”

The Third Annual Report of the Conservation Commission for the year 1913 says: “Nearly all the merchantable material in a forest is contained in a few of the larger trees. The larger trees are but a small proportion of the whole stand, therefore their removal does not injure the forest cover. The purpose could be best accomplished by classifying the Preserve into areas which should be maintained as protective forest and into other areas which could be used for wood production. The former would include mountain tops, steep slopes or other places where it might be difficult to maintain the forest cover, and which should not therefore be lumbered. The latter would include the lower and more level sections where operations could be profitably conducted without injuring the forest cover, leaving, however, belts around lakes

and other places where the esthetic or camping interest was more important than the commercial."

This method also has the indorsement of Henry D. Graves, Chief Forester of the National Preserve, and an authority of the highest standing, who in a letter to the chairman of the Conservation Commission under date of July 18, 1915, wrote in part as follows:

"Undoubtedly considerable parts of the Adirondack Preserve should be retained as pristine forests for the recreation and esthetic enjoyment of the people. I believe, however, that it would be equally unfortunate for the Constitution to prevent the people of the State from carrying out, after expert advice and public consideration, a policy of practical forest management on certain parts of the Adirondack lands or any other lands owned by the State where it is determined to be the highest use which can be made of that particular portion of the public holdings."

This is likewise the method proposed by the head of the New York State Forestry colleges at Syracuse and Cornell in numerous letters, and in testimony before the Committee at its public hearings. It is also the method by which the Japanese government manages its forests, as stated by Mr. Nokai, a director of the natural forests of Japan, now on a visit to this country.

The last Democratic State platform, adopted in the year 1914, contains the following language:

"The Constitution, in relation to the preservation of forests, should be so amended as to permit a profit to the State, to be derived from the scientific preservation and cultivation of our forest lands, and at the same time protecting them against exploitation by private interests."

The Republican State platform, adopted at the time the Republican delegates-at-large to this Convention were nominated, contains the following upon this subject:

"We favor the conservation and utilization of the State's forests and waters under conditions which will safeguard the rights and interests of the State. The holdings by the State of forest lands should be enlarged and adequately protected against fire and waste."

Gifford Pinchot, in a letter to the chairman of this Committee under date of July 7, 1915, wrote in part as follows:

"I am in favor of a constitutional provision which will permit the cutting of timber, not only dead and down, but mature and ripe, in the Adirondacks, as perhaps you know, and I am enclosing herewith a report made to the Camp Fire Club in 1911, which deals with the matter."

The Empire State Forest Products Association, at a meeting held in Utica November 12, 1914, recommended that: "The Constitution should be so amended that the Legislature may provide:

"First. For the sale of mature, dead and down timber being and standing in the Forest Preserve, as now or hereafter constituted, and for the removal of timber so sold in accordance with the principles of scientific forestry.

Second. To sell the lands in the Forest Preserve outside the Adirondack and Catskill parks.

"Third. To lease camp and cottage sites in the Forest Preserve.

"Fourth. To provide for the construction of roads, trails and fire lines or lanes in the Forest Preserve.

"Fifth. To set apart the proceeds of the sales of lands and all other net revenue from the Forest Preserve in a fund to be used only for the purchase of lands in the Adirondack and Catskill parks, for the reforestation of lands owned by the State in said parks and for such other purposes for the benefit of the forests in said parks as the Conservation Commission shall provide.

"Sixth. To raise funds sufficient to continue the acquisition of forest lands and lands suitable for growing forests not belonging to the State within the Adirondack and Catskill parks."

The Association for the Protection of the Adirondacks, and the Camp Fire Club of America, by their subcommittees, at a joint meeting held in New York city July 16, 1914, voted in favor of the following Proposed Amendment to the Constitution:

"The prohibition of Section 7 shall not prevent the cutting or removal of mature, dead or fallen timber or trees, detrimental to forest growth on lands constituting the Forest Preserve, nor the leasing of camp sites, nor the construction of roads and trails necessary for protection against fire and for ingress and egress. The Legislature may authorize the sale of lands outside the limits of the Adirondack park and of the Catskill park as such parks are now established by law."

In an editorial in the July, 1915, number of "American Forestry," the official organ of the American Forestry Association of which Dr. Drinker, President of Lehigh University, is president, the following is stated:

"The prejudice against cutting of green timber is deeply ingrained in the minds of New York citizens, due to distrust of her politicians. The situation demands the complete elimination of politics from the management of the State forest lands. Should the Convention be able to accomplish this, they need no longer hesitate to permit cutting. On the Minnesota National Forest, the

timber around the shores of the lakes and other points accessible to the public is preserved and protected although the forest service has the technical right to cut and remove it. Areas of especial value can be so classified and preserved in their primitive condition. The remaining areas, unaccessible to the public, can be logged by methods which preserve the forest cover, secure reproduction and prevent waste from decay. These methods have been fully demonstrated on the National forests. Must New York, through timidity, close her eyes to progress, and either lock up her forest resources, or imperil them with ill-considered half-measures. Now is the time for the State to establish a sane and orderly administration which will bring the Adirondack forests to a plane equal to that of the wonderful Black Forest of Germany, which while serving as the recreation ground for the entire region, supports hundreds of villages and thousands of persons dependent entirely on the forest industries for their existence."

The New York Evening Mail in its edition of July 27, 1915, in an editorial entitled "Tying Up the State Forests," states its opinion of the report favored by the majority of this Committee in the following words:

"The Convention's Committee on Conservation has decided to recommend the continuance of the present constitutional prohibition against any attempt at scientific forestation of the lands of the State. No timber is to be cut on the State lands except what is dead or fallen. The construction of roads in the Forest Preserve will be forbidden, as well as the future leasing of camp sites.

"The whole cause of forestry, and to that extent of conservation, has been greatly and stupidly hindered in this State by the inability under which the State authorities rest to make any economic or scientific use of any part of the State's forests, even as a matter of experiment, instruction or example.

"The simple fact is that the Adirondack forests are not considered by our sapient legislators to be the property of the people, but of the rich 'camp' owners and club men who go up there to enjoy themselves in a luxuriant manner in the summer and to shoot deer and other game in the autumn. For their purposes the forest seems well enough in its roughest condition. Scientific forestation makes no appeal to them whatever.

"We have a chance in the State of New York for almost as great a development of our forest wealth as has taken place in the Empire of Germany. The central portion of our two great mountain ranges contains 7,200,000 acres, which is under nominal fire protection. The State-owned Forest Preserve consists of 1,825,852 acres, to which it is proposed to add largely. But none of this

land is under forest management; this, as we have said, is already forbidden by the Constitution. In the meantime we are prevented by the selfish caprice of a few millionaires from realizing so desirable a thing as that which is seen in Prussia, where the 6,700,000 acres of State forest yield a net annual income of \$20,500,000, without any deterioration of the forest whatever."

These are but a few of the many authorities which might be referred to which indicate conclusively the error which will be made by this Convention if it perpetuates and still further limits the already too narrow policy in the care, use and development of the Forest Preserve, of which the majority of the Committee is in favor. True conservation does not consist in locking up our resources where the wealth therein contained must be forever lost, but in the utilization of these resources under wise regulation.

The President — Now, the next minority report is that by Mr. Whipple.

The Secretary — The undersigned, a member of the Committee on Conservation of Natural Resources, disagreeing with the Committee's report in several, separate and distinct particulars, makes the accompanying minority report setting forth the reasons for disagreeing and in what particulars the majority report should be amended and asks that this dissent and minority report be placed on the General Orders calendar and considered in connection with the majority report in the Committee of the Whole.

Some of the reasons that impel a disagreement with the majority of the Committee are as follows:

First. On the question of the administrative features intended to be provided for by the Proposed Constitutional Amendment reported by the majority of the Committee, it is believed that the plan so proposed by the Committee, which is for an unpaid board of nine members, is not justified by experience, will be unworkable, will prove inefficient and be a detriment to the public service.

It is also believed that the class of men, who will from necessity be selected as members of such a board, will be men of wealth, whose business interests require nearly all of their time and attention. That they, or many of them, will have little or no actual knowledge of the subject-matter to be under their control, and no time or disposition to give it the constant, daily attention this intricate, many-headed, difficult problem that is bounded by the limits of the State demands. That the conflicting opinions of the members of this large board, based upon insufficient knowledge, will result in inaction and in the end will not produce good results. The whole history of the Department for more than twenty-five years establishes the fact that such undesirable results

follow when more than one man has been at the head of the Commission. The large commissions have always been inefficient, and made little or no progress, responsibility has not been centered and they have never worked well. The State has tried a commission of seven, then one of four, then one of three, then one of five, then one of four, then one of three, then a single Commissioner, which form was continued until 1911, when a return was made to a three-headed commission and after again trying that plan for four years we are back to a single-headed commission. An examination of the work in the Department will disclose the fact that there was more constructive work done under a single-headed commission from 1903 to 1911, a period of eight years, than there has ever been done in a much longer time by any larger commission. With this experience and this record it does not seem wise to the dissenting member of the Committee that the State should again go back to a larger commission and especially when it is to be tied up for twenty years by a Constitution.

Further, the proposal is objectionable because the members of the Board are to be asked to give their time, best services and best thought for a long period of years without pay. It sounds fine in theory, but to work without pay never has and never will cause men to do their best for a considerable length of time. It is objectionable because responsibility is not centered. It is objectionable because the Governor does not appoint the superintendent and have power to remove him. In fact such a board is just as objectionable from every standpoint as a like board would be for the Agricultural Department, the Highway Department and many other departments. It would be much like the vermiform appendix in man, useless, and should be cut off.

Second. The majority proposition makes no provision for roads of any kind through this immense tract of forest land. A park without roads in the right places is of much less use to the people than it would be with proper roads. What would have been thought when Central park in the city of New York was established if no roads had been provided for and the Commission prohibited from making any?

In time, this wonderful, woodland park will be to the people of the whole State what Central park is to the people of Greater New York. These parks and playgrounds of the people are for use. Easy and convenient ways should be provided for ingress and egress. Therefore this minority report suggests at least that a State highway may be provided for by the Legislature, running from Old Forge northerly along the Fulton chain of lakes and thence northerly to connect with some main highway at or near the Saranac lakes. Such a road would run through the most

beautiful part of the Adirondacks, would furnish an acceptable and beautiful way from the southern side to get in and out, and would afford better opportunity for protecting as many as forty miles of woodland from fire. For these reasons dissent is made to that part of the majority report.

Third. Inasmuch as the majority report provided that dead trees and timber may be taken out where necessary, for better fire protection and reforestation, but declares such material cannot be used, dissent is made to that proposition because it is not comprehensive enough. There seems to be no good reason why such material should not be used at least for fire wood for domestic purposes by the resident people (there are several thousand of such people), some revenue obtained and thereby relieve a bad situation that exists in many places where the people have to pay as much as \$14 a ton for coal, while millions of cords of stove wood are in sight in dead and down trees, doing no good to any one and in many instances making a dangerous situation and opportunity for more fire.

Fourth. Dissent is made to that portion of the majority report that provides for permits, ratifying and making legal the occupancy on State land of five or six hundred people, who for some years have been occupying the people's property without legal authority and in violation of the provisions of the Constitution. That proposition appears to be a proposed premium on doing wrong and to the exclusion of all those who obey the law and do right. It singles out a special class who have been violating the law, gives them special privileges and excludes all others from enjoying like privileges.

For the foregoing reasons this minority report is made and amendments to the majority report suggested in these particulars, with the hope that the reasons for dissenting are so plain and reasonable, that the Convention will adopt these minority propositions.

(Signed) J. S. WHIPPLE.

The President — The Chair lays before the Convention a minority report presented by Mr. Austin.

The Secretary — With the general policy proposed by the Conservation Committee as to the preservation of the State's natural resources I am in entire accord; it is only with the methods by which it proposes to carry out this general policy that I am at variance.

I dissent from the proposal for a nine-headed unpaid Conservation Commission for the reasons stated by Delegate Whipple

in the minority report, submitted by him, and for the further reason that I have very grave doubts as to the advisability of giving these nine unpaid commissioners the absolute power, subject only to executive veto, to make the fish and game laws for the State. I well realize the many inconsistencies which have arisen from the multitude of fish and game laws enacted by the Legislature, and I think the Conservation Department should have much discretion delegated to it in the matter of protecting wild life, but we are going too far when we say that the Legislature shall be deprived of even a reserve power over this subject. I also dissent from that part of the majority report which would place in the Constitution a provision commanding the Legislature to appropriate at least \$500,000 annually for the purchase of lands, reforestation, the making of surveys, etc. The proposal to appropriate specific sums of public money by a constitutional provision operative for twenty years in the future does violence to all our accepted principles of State finance and seems to be indefensible from any viewpoint. It may well be proper for the Constitution to declare that sufficient moneys be provided by the Legislature to carry out the State policy as to conservation therein enunciated, as has been done with reference to canals by Section 9 of Article VII of the present Constitution; but to command the Legislature to appropriate half a million dollars for twenty years to come, regardless of conditions, which are sure to change, and of variations in the State revenues and expenditures, which are bound to occur, is an entirely different proposition.

It is my personal belief, based upon my own experience, that an annual appropriation of the sum suggested will be desirable for many years to come, but the appropriation of money to carry out the State's activities is essentially a legislative function, not that of a Constitution. The necessities of one State department must be considered in connection with the needs in other directions and the probable revenues; these cannot be absolutely determined five, ten or twenty years in advance. Therefore, having defined the general policy which we believe the State should pursue, it seems that we should go no further, for we must assume that the Legislature will provide the funds necessary to carry out that policy, if consistent with the other demands upon the public treasury. Unless this be true, our entire theory of the administration and control of State finance should be discarded.

(Signed) H. LEROY AUSTIN.

The President — Unless other disposition is proposed it will be referred to the Committee of the Whole, and the various reports will accompany the amendments.

Mr. J. G. Saxe — Will the various reports which are at the desk and these Proposed Amendments go to the Committee of the Whole and be considered on General Orders?

The President — Under the rules, the various reports are printed as documents and sent to the Committee of the Whole with the Proposed Amendment.

There being no other disposition proposed, the amendments reported by the Committee on Conservation will be referred to the Committee of the Whole.

The President — Reports of standing committees.

Third reading.

Unfinished business of General Orders.

Special orders.

General orders.

The Secretary will call the calendar.

Mr. Wickersham — In order that the Committee on Rules may consider the question as to the order of business for the next day and next week, I move that the Convention do now take a recess until 11:30.

The President — It is moved that the Convention take a recess until 11:30. All in favor say Aye, contrary No. The motion is agreed to and the Convention stands in recess until half-past 11.

The Committee on Rules is requested to meet immediately in the President's Room.

Whereupon, at 11 a. m., the Convention took a recess until 11:30 a. m., same date.

AFTER RECESS

The President — The Convention will be in order. The gentleman from New York, Mr. Nicoll.

Mr. D. Nicoll — The Committee on Rules presents the following report:

The Secretary — The Committee on Rules reports:

First. That No. 758, General Order No. 35, be special order for Thursday, August 5th.

Second. That No. 708, Introductory, General Order No. 44, be special order for Friday, August 6th.

Third. That No. 754, General Order No. 25, be special order for Wednesday, August 11th.

Fourth. That after the evening of Monday, August the 2d, the Convention sit from 10 o'clock a. m. to 1 o'clock p. m., and from 2:30 p. m. to 5 p. m.; and that on the morning of Saturday, August 7th, the further modification of this order of sessions be considered.

Fifth. That when the Convention adjourns to-day, it adjourn to Monday, August 2d, at 8:30 p. m.

Mr. D. Nicoll — Mr. President, I move the adoption of that report. It is simply designed to facilitate the business of the Convention. It is calculated that Monday night and two sessions on Tuesday and two sessions on Wednesday will be occupied with the General Orders now on the calendar. There seems to be in them plenty of business for the Convention on those three days. Then we have moved as a special order for Thursday the report of the Committee on State Finances now presented to the Convention and already on the files. We calculate that that ought to be disposed of in the session on Thursday, and it is proposed on Friday to move the consideration of the report of the Committee on Conservation.

Mr. Barnes — Wednesday week — Wednesday, August 11th.

Mr. D. Nicoll — Yes, on Wednesday, August 11th, to take up for consideration one of the reports of the Committee on Legislative Powers. It is thought that next week two sessions, morning and afternoon, of the Convention ought to be enough, but that on Saturday, a week from to-morrow, we will take up consideration of whether or not we shall sit three times a day.

The President — Are you ready for the question upon the motion? All in favor of the motion say Aye, contrary No. The motion is agreed to.

Mr. Berri — I would like to introduce a resolution that we have 500 copies of the Record of the proceedings of the Convention printed, in addition to the number provided by the rule formerly adopted. I will say that there is an urgent demand for the Record of our proceedings at this time, and it has been the idea of the Convention, as I understand it, that we shall give the widest publicity to our proceedings, and I think that this is absolutely necessary at the present time.

The President — Mr. Berri asks unanimous consent for consideration of the motion out of order. Without objection, the motion is before the Convention. All in favor of the motion will say Aye.

Mr. Quigg — What is the motion?

The President — That we shall print 500 additional copies of the Record.

Mr. Quigg — Yes, Mr. President; and in that connection I am going to express the hope that, in view of the scant attendance to-day, a quorum having been present before we took a recess and probably not a quorum here now, that the newspaper representatives will print in full the short report of the Committee on Rules in order that it may be disseminated throughout the State and

members who are absent now may know the business that is going to come up next week and get prepared for it.

The President — All in favor of the resolution offered by the chairman of the Committee on Printing will say Aye, opposed No. The Ayes have it and the motion is agreed to.

Mr. Unger — On page 436 of the Record, it appears that the memorial of the Society of Tammany or Columbian Order was ordered to be printed as a document. As yet it has not been printed as a document. May I inquire whether there is any special reason why it has not been printed as a document as yet, of Mr. Berri?

The President — The gentleman from New York makes an inquiry. Is any one disposed or able to give the information?

Mr. Unger — I just want to call the attention of the Printing Committee to that fact.

Mr. Berri — It properly belongs to the Secretary, Mr. President.

The President — The Secretary will take note of the inquiry.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves that the Convention do now adjourn. Will the gentleman suspend that for a moment to allow the Chair to make an observation?

The Chair wishes to say to the Convention that the Convention is now several weeks behind the stage of progress which was reached by the last Convention in the same period of time in its existence. The period during which this Convention must discuss and act upon the work of its committees is necessarily very short. We shall find ourselves toward the close of that period obliged to limit discussion as did the last Convention, and if we are to have that full and free expression of views which is so important to reaching sound and just conclusions, it is necessary that we should address ourselves without any avoidable delay to the serious discussion and final action upon the various proposals of the committees of the Convention.

The report of the Committee on Rules, which has been adopted, commits the Convention to taking up that discussion beginning with Monday of next week, and as to what succeeds the Chair will only call the attention of the Convention to the fact that the last Convention found it necessary, after reaching that stage, to remain in Albany without returning to the homes of the members and to transact the business of the Convention for six days in every week. In other words, from Monday next the requirements of the duty of the Convention and the precedents of former Conventions will compel the customary practice of the Legislature of the State to be abandoned, and the method which is followed by

the Congress of the United States to be adopted, that is, the practice not of doing business in the middle of the week, the members returning to their homes at the end of the week, but the practice that all the members of the body remain here continuously until the work is completed. And the Chair takes the liberty of expressing the very earnest hope that the members of the Convention, upon returning to their homes this week-end, will so arrange their affairs that when they come to Albany on Monday they will come to stay for the remaining period of the Convention.

Mr. Wickersham moves that the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until half-past 8 o'clock Monday evening.

Whereupon, at 11:45 a. m., the Convention adjourned to meet at 8:30 p. m., Monday, August 2, 1915.

MONDAY, AUGUST 2, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. David H. Chrestensen.

The Rev. Mr. Chrestensen — Oh, Thou, God of wisdom, who dost carry out Thy purposes in the world by the employment of human personalities, to these who are entrusted with very great responsibility by the people of this great commonwealth, we would implore Thee to grant unto them great wisdom, broad vision, high ideals of righteousness and justice, that they may bring to their task, this great task, the very best that there is in all that personality. For Jesus' sake. Amen.

The President — Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed the Journal stands approved as printed.

Presentation of memorials and petitions.

The Chair lays before the Convention a communication from the Rochester Chamber of Commerce, which will be referred to the Committee on Governor and Other State Officers; also a communication from the members of the National Committee for Mental Hygiene, which will be referred to the Committee on Charities.

Any further communications?

Communications from the Governor and other State officers.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. Brackett — I have a number of communications directed to me as a member of this body, but I am in doubt whether they

should be presented under this order of business or under petitions. I take the advice of the Chair. They are protests against the enactment of the short ballot, so-called.

The President — The Chair would say that they belong under the order of Memorials and Petitions, but does the delegate desire to ask for unanimous consent?

Mr. Brackett — No, I will not ask that; I will wait until tomorrow.

The President — Reports of standing committees. Are there any reports from standing committees?

The Secretary — By Mr. Hale, from the Committee on Public Utilities: The Committee on Public Utilities to which was referred Proposed Amendment introduced by Mr. Blauvelt, No. 31, Introductory Number 31, entitled "Proposed constitutional amendment, to amend Article VII by adding a new section relating to highways," reports in favor of the passage of the Proposed Amendment.

The President — Is there any disposition to be moved?

No other disposition being moved, the Proposed Amendment will be referred to the Committee of the Whole.

Any other reports of standing committees?

Reports of select committees.

Third reading.

Unfinished business in General Orders.

Special Orders.

General Orders.

The Secretary will call the calendar.

The President — Three numbers upon the calendar having been moved, the Convention will go into Committee of the Whole upon the calendar. Will Mr. Low take the Chair?

Mr. Low — Mr. President, I appreciate the honor of the invitation, but I am wholly inexperienced in legislative matters and I am afraid that I should not be able to discharge the duties to the satisfaction of the Convention.

The President — Will Mr. Sheehan take the Chair?

The Chairman — The Convention is in Committee of the Whole on the calendar of the day. The Clerk will read.

The Secretary — General Order No. 23, by the Committee on Legislative Powers.

Mr. Barnes — When this bill was placed upon the calendar, I had supposed that the suggested amendment made by Mr. J. G. Saxe and by Mr. Tierney would be brought before the Convention, but as it appears from consultation with them that they are not inclined to move their bills immediately or at all, I still feel that it is necessary that this question should come before this

Convention for some consideration. If you have read this measure carefully, you will see that it is a complete and absolute departure from the policy of the State since the enactment of the law of 1895, the basis of the present Election Law. I believe that when that law was passed at the time with unanimous — or very large — support, and I was one of the number who gave it earnest support, the State made its initial error in legislation in relation to elections, because in establishing the official ballot which in a modified form we still have, it granted to groups of ten thousand voters a privilege which was denied the smaller groups. The result of that legislation was that at first it was deemed very acceptable because of the evils that were inherent in the small ballots that were used, before that time. So much fraud had been committed, that secrecy had been impossible, and political dickering had resulted frequently in that the workers at the polls of one party inserted ballots of candidates of another party so deceiving those who came to the polls asking for ballots.

Nearly all of you will recall, that opposition to the other ballot as constituted by the act of 1895, enacted by the Republicans, did not manifest itself for some years thereafter, but along about 1906 or 1907 the agitation for direct nominations began. The arguments that were raised, principally in behalf of the idea of direct nominations, were that it would make it impossible for those who were called political bosses to control nominations, and that the nominations therefore would be in what is called "the hands of the people."

That demand clearly arose from the fact that the voters felt a restriction. Now that restriction which they laid at the door of the convention-system, should really have been laid at the door of the official ballot which granted a privilege upon the ballot to the nominations of political parties. If all political parties, or all political groups, which is a better expression, were upon an equal footing, then it would not interest the state at large in what manner those groups made their appeal to the electorate. It is a right of voters to group in behalf of such ideas or such purposes as they desire to see placed in law or against those which they desire to see prevented, but by our present system we have so organized our political parties that instead of being vehicles of thought they have become mere aggregations with a copyrighted label upon the name, making it practically impossible for independent movements to gain expression in behalf of an idea.

The most concrete example that we have had in recent years, to show what I believe to be the error of the State in this regard, was in relation to the Progressive Party movement in 1912. At that time, or rather in September, 1912, those voters who favored

the election of Mr. Roosevelt, met at Syracuse and held a meeting. They called it a convention. It was not a convention. At that time the convention system had been abolished. They placed in nomination Mr. Straus and other gentlemen for State offices, and then, in accordance with the provisions of law, proceeded to get petitions in order that the men whom they desired to see elected might be placed upon the official ballot.

Those petitions were gotten together, the names went on the ballot, the election was held and then, because this particular group had polled some 390,000 votes, that is, over 10,000, they became a political party; and, subject to all the rules and all the restrictions, and participating in the privilege which the State had granted to the older parties, immediately became a fixed and positive organism in the State. It was not necessary for the purposes, perhaps, of that political movement at that time, that it should be a continuing organization, no matter what may have been the thought of those who formed it. As a matter of fact, you see, this system crystallized every possible movement that may be applicable to a particular type called a political party, and with our system of enrollment there is no check whatsoever, or there is no method now known to the present election law whereby any ideas may be incorporated into a political party's existence. In other words, we have created, by our methods, an organization; we provided it no reason for existence, except the fact that it does exist.

Now, my proposal in this respect is to deny the privilege which is now accorded to political parties upon the official ballot. That is a necessary step to the second paragraph which prohibits the Legislature from passing any law regulating the election of party committees, the method of nominations for public office by political parties or other groups of voters, and the rules of procedure, except providing for a place upon an official ballot, if any.

Now, the result of that would be that all groups would operate in accordance with the desire of those who belonged to them and not under stiff regulative measures which the State has imposed. For example, I will show you some of the inconsistencies in our present State law. The present State law provides that each political party shall have a State committee, which shall consist of 150 members, one from each Assembly district, regardless of whether the party has any voters in the Assembly district or not. The Sixth Assembly district of New York, the Eighth Assembly district of New York, the county of Schenectady and the county of Monroe have a large number of Socialist voters, members of the Socialist Party. The county of St. Lawrence, the county of Clinton and the county of Franklin have practically none; yet

their representation on the Socialist State Committee is just the same in the county of Clinton as it is for the Sixth district of New York or the county of Schenectady or the county of Monroe. Furthermore, it is entirely possible that in the counties of St. Lawrence and Franklin and others — I might name thirty where there is practically no Socialist vote — anybody could, nevertheless, enroll as a Socialist, and the membership of the Socialist State Committee might be taken entirely from the voters of the Socialist Party. It is equally true that this condition exists in the Republican Party, that Assembly districts where there are eight or ten thousand Republicans have equal representation in the State Committee with Assembly districts where they have not over seven or eight hundred. And it is equally true in the Democratic counties. In counties like Yates, Schuyler and St. Lawrence, where the Democratic vote is small, equal representation exists with the large Democratic districts, such as the Twentieth and Twenty-second districts of New York and the Second and Third of Kings. This, of course, is an evil that could be remedied by statute, to be sure, but where does the State get its power to regulate acts of eight or ten or a dozen men who desire to accomplish something in the government of the State, unless they commit fraud against themselves — unless they commit fraud within their membership or indulge in some corrupt practice which is excepted under this proposed bill.

Mr. Baldwin — I would like to ask the gentleman, when he refers to the inequalities of representation of the political parties, and refers to it as an evil, if the same argument does not pertain to all representation in the Legislature?

Mr. Barnes — That is not a pertinent inquiry to this debate at all, Mr. Baldwin. In voting in favor of that proposition, I stated my views, that the franchise is not a right but a privilege, and the question therefore of territorial representation should be considered. The issue I raise in this particular point is this: That if you gather together five, ten or fifteen thousand men in behalf of establishing a prohibition on the sale of liquor, it is not the part of the State to regulate how you shall operate in order to bring about the result that you desire. The State easily might crush any movement by statute governing the method by which men join in voluntary association, but it would be fruitless for any one to make an argument in behalf of the second paragraph involved in this proposed constitutional change if he did not include in it the first. It was only because of the privilege that exists upon the official ballot that public opinion became active and real in behalf of the present system of making nominations which we have to-day. There would be no interest on the part of the

public at large in how nominations were made, were it not that *ipso facto* those nominations went on the ballot. It is that privilege which aroused this antagonism. It would not make any difference about how a man was nominated — it is no interest to the State. He represents an idea — but for this mechanism, this repressive system which we have established by our initial error in 1895, when the ballot law was reformed, where it could have been avoided at that time. If the Legislature had kept out privilege on the official ballot, then you would not have had the difficulties of the situation which you have to-day, and you would not have what you have to-day — political parties formed into inflexible mechanisms, where it is impossible for a voter, where it is impossible for me, to know, when I vote the Republican ticket, for what I am voting. I had the pleasure last fall of voting the Republican ticket and voting for a Republican member of the Legislature from my district, but on examining his record recently I discovered that he voted against every thought that I considered to be Republican, or at least on several occasions. I do not lay any blame upon him, but under this law there is no remedy, there is no opportunity for those who desire to bring about certain things in government to group except under this inflexible method. They have the right to form an independent movement — make your committees, and then, if you find you have sufficient support to be over 10,000 you come under the rule. So your success is your failure, because then you come immediately under the rule of a political party, and that political party may be taken away from the ideas upon which it was founded.

I do not know whether you all clearly see this — I do; I have had, of course, a very extended experience in relation to it; I have watched the development of it, opposed the movement for direct nominations,— not of party committeemen, because that is not a primary; that is an election because the men are chosen by that act — but the rigid scheme which we now have — and this is the principal point I have in mind — is destructive of the line of demarcation between parties, so that parties will have meaning. They are prevented now from having meaning by the very scheme and inflexibility of the law, and the law which was designed, like many laws are, for liberty, has resulted simply in the repression of individual expression and made the individual voter more unable to get an opportunity to express his mind than he was even under the old system of conventions with the privilege upon the ballot. Take the privilege away. Don't let any group of men get on this ballot in any way that another group of men cannot get on by, whether it is by petition, whether it is simply by filing in the Secretary of State's office, as it is in the State of Oklahoma,—

that is for the Legislature to determine. Take that privilege away and then let all citizens of this State group as they will in accordance with their own rules, made by their own people, of course, or through the agency of representatives whom they may elect, and then let them make their appeal to the whole electorate, and if successful, well and good; if unsuccessful, they can again continue the battle that they desire to make for the establishment of certain principles or the enactment of certain legislation or the defeat of certain legislation or the repeal of certain legislation which it is their desire to accomplish.

Mr. M. J. O'Brien — I did not intend to take any part in this debate, but it brings up a question to which I have given some little attention and I endeavored in another form to have the Committee on Bill of Rights adopt a suggestion which was made by that great jurist, a man whom everybody in this Convention, regardless of political affiliation, has great respect for — I refer to the late Chief Judge of the Court of Appeals, who is still among us, a living and active figure, and who as the result of his observation on the same question as the gentleman has presented in the several bills which are now before the House — I would say to him that I was not successful, although a member of the Committee on Bill of Rights, in having it adopted:

Mr. Barnes — What number is that, Judge?

Mr. M. J. O'Brien — That is the amendment of Judge Cullen.

Mr. Barnes — Is it printed?

Mr. M. J. O'Brien — I would like to have it printed, because my first thought was after this had been rejected by the Bill of Rights Committee — my thought was to have the matter presented by myself and those who had read it and thought it was perhaps a solution of the matter, and have it sent to each member of the Convention, but I would like, simply for the information of the Convention and the members of it, if I might be permitted to read it — it is only a sentence — and then have it printed, to the end that we might have it when the further discussion of this question which has been presented by Mr. Barnes will be before us again. I could move it as a substitute, as has been suggested by the Chairman of the Committee on Bill of Rights, who was with me in favor of it, but it is very short and, if you will pardon me, I will read it. The proposition is to amend Section 9 of Article I of the Constitution, in relation to the rights of electors to select candidates for office.

Section 9 of Article I is hereby amended to read as follows:

Section 9. No law shall abridge the right of the people peaceably to assemble, and to petition the government, or any department thereof, or the right of the electors, or any number of them,

to associate and select candidates to be voted for at any election for public office under such methods as they may deem proper.

Now then it goes on with the rest, which I will not read, and I would like if the gentleman would consent to it, to have this either in the form of a substitute or in such other form that we might have it before the Convention for consideration.

Mr. Quigg — Why not read the rest of it, Mr. O'Brien?

Mr. M. J. O'Brien — The rest of it simply follows along, "nor the right of the electors or any one of them to associate and select candidates to be voted for at any election for public office in such method as they may deem proper" — it is a broad provision against attempting to deny the right to any number of electors. Of course I need not say, because you gentlemen who listened to me would readily understand, that as a matter of first importance this might in some way seem to be an attempt to injure or affect the direct primary. You will come on consideration to agree with me that it does not do anything of the kind. It leaves the manner in which candidates when they are elected, in the method in which electors of the State shall select them, it is then for the Legislature to determine, by direct primary or any other way, the manner in which the expression of the electors shall be laid out and I would ask that this be printed or substituted — I don't care — so that we might have it.

Mr. Barnes — Why, certainly, it has not been introduced as a bill then?

Mr. M. J. O'Brien — No; it came up a little late and I tried to get the Committee on Bill of Rights —

Mr. Barnes — May I ask why that does not affect the direct primary system, as it stands?

Mr. M. J. O'Brien — I will take up the whole discussion when I reach it. I don't think it does. This of course provides that no method shall take away the right of electors to make nominations in the manner in which they may elect, but I would like to have this considered with the amendments suggested by you.

Mr. Barnes — Why don't you move that as a substitute and let it lie for discussion?

Mr. M. J. O'Brien — I will accept that suggestion. I move it as a substitute, and ask that it be printed.

The Chairman — The gentleman from New York makes what motion?

Mr. M. J. O'Brien — I move that it be substituted for the proposal of Mr. Barnes, and then printed, and in the meantime —

The Chairman — The question is on the adoption of the amendment offered by the gentleman from New York, Mr. O'Brien. Is the Committee ready for the question?

Mr. Wickersham — Mr. Chairman, I do not understand the gentleman to move for action on that substitute, but simply to move it as a substitute and ask to have it held over until some future day. Therefore the question would arise if there is to be no further discussion whether we are to debate that this evening.

Mr. Barnes — Mr. Chairman, I move this bill to-night because of its great importance and because of the great interest in the subject, and not with any particular desire to have action taken upon it at this time, but rather for the purpose that the subject be brought to your mind and later on doubtless other members of the Convention, because of the opening up of the subject, will have prepared their minds more thoroughly for the purposes of debate. If there is no one else who wishes to speak to-night, I should like to ask that the Committee rise on this bill, report progress and ask leave to sit again.

The Chairman — The motion of the gentleman from Albany is, that the Committee do now rise, report progress —

Mr. Barnes — Mr. Chairman, I moved that when the Committee rises.

The Chairman — The question is upon the motion of the gentleman from Albany.

Mr. Brackett — Perhaps a little out of order, in reverting to Judge O'Brien's motion. I would like to say that I think that the proper motion on that, and to meet his views, is to make a motion to substitute the amendment which he presents in place of the pending bill; that it be printed, and that the motion lie on the table. I think that is the form his motion ought to take, in order to meet his views, and that it may be so considered.

The Chairman — The Chair assumes that technically, the proper action to be taken is that the gentleman from Albany should modify his motion so that it would be that when the committee rise it report progress on this bill, together with the proposed amendment and that the committee ask leave to sit again.

Mr. Barnes — I amend it to conform with the Chair's suggestion.

The Chairman — And then, if that action meets with the wishes of the House, or the Convention, to which it is reported, and it can be printed and the committee granted leave to sit again.

Mr. Barnes — Mr. Chairman, I make that motion.

The Chairman — The question is upon the motion offered by the gentleman from Albany. All in favor of the motion say Aye, contrary No. The motion is carried.

The Clerk will proceed.

The Secretary — No. 756, General Order No. 28, by the Committee on Taxation.

Mr. M. Saxe — Before I take up the argument where I left off on Thursday last, I desire to read into the Record some statistics with reference to the situation as to exempt property in this State in answer to a question which was put at that time by Vice-President Schurman. The total assessed value of real estate, exclusive of special franchise properties, for the year 1914, was \$10,615,-877,069. The total assessed value of real estate exempt from taxation for the year 1914 was \$2,377,156,232. So the assessed value of property exempt from taxation was 22.3 per cent. of the total value of real estate, exclusive of special franchise properties in the year 1914. Of the total assessed value of exempt real estate amounting to \$2,377,156,232, we find that \$1,722,669,413, or 72.5 per cent., is property owned by the public; and that \$654,-486,819, or 27.5 per cent., is property owned by private corporations, associations or individuals.

Carrying this analysis further, we find that the relation of the total assessed value of exempt real estate owned by the public to the total assessed value of real estate represents a ratio of 16.2 per cent., and that owned by private corporations, associations and individuals, 6.1 per cent. That, I think, is a complete answer to the information desired by Mr. Schurman. For the purpose of connecting the thread of the argument, I will outline very briefly what has gone before with respect to the purposes of this article. I indicated that the modern trend in taxation, in order to develop proper systems of administration, is towards centralization. I pointed out that under the decisions of the courts in this State, under the present Constitution, particularly with reference to Section 2 of Article X, the so-called home rule provision, that centralization is impossible.

I alluded to the very illuminating opinion of Judge Vann in the Metropolitan Street Railway Case where he pointed out that the function of assessing property is a constitutional function under our present Constitution that cannot be taken away from the local authorities, and that any attempt to do so is a violation of the home rule provision of the Constitution; and that, therefore, the Committee on Taxation, in order to make this modern tendency of centralization possible in the development of a sound system of taxation by this State, provided in this article practical abolition of the home rule provision so far as the assessment of personal property is concerned and bringing it into force again so far as the assessment of real property is concerned, and yet permitting what is impossible now, centralization within county lines.

That brings us down to the very last expression of the Court of Appeals upon this vital question enunciated in the case of Village of Pelham against the Town of Pelham, arising out of the

so-called Westchester County Tax Act, chapter 510 of the Laws of 1914, where the Legislature passed a law in response to the demands of the people of Westchester county, by which the function of assessment was taken away from the village assessors and placed in the town assessors, and similarly the function of the collection of local taxes was taken away from the village collectors and put in the town collectors.

Now, I ask your careful consideration and attention to the opinion of Judge Seabury in this case, because it very clearly points out the impossibility of a centralized system of tax administration, even within a county, and his reasons therefor are very clearly set forth.

He says: "The Westchester County Tax Act, chapter 510, Laws of 1914, contains a complete scheme for the assessment and collection of taxes within each town in Westchester county. The act provides that there shall be but one board of assessors in each town of Westchester county, who shall be elected or appointed in the manner prescribed by law from time to time, for the election or appointment of town assessors. It requires such board of assessors to make and prepare all assessment rolls for the purpose of taxation within their respective towns, whether for state, county, town, village or any tax district purpose or purposes. It requires also that the assessors shall be residents of the town, but not necessarily of any other tax district for which they may be required to make an assessment. The board of assessors, in addition to discharging the requirements contained in the general tax law, are required to make the assessment for each separate tax district in any town and whenever necessary make an apportionment of the assessment of the property between or among the tax districts in which such property is located. The act provides that a receiver of taxes shall be elected or appointed in each town in place of a collector of taxes, whose duty it shall be "To collect all state, county, town, village, school, and district taxes and assessments levied or assessed upon any taxable property within said town for the state, county, town, incorporated villages or any tax district or part therein." Such receiver of taxes is required to be a resident of the town but not necessarily a resident of any other tax district for which he may be required to collect taxes or assessments.

Under the provisions of this act, the supervisor is directed to deliver to the receiver of taxes, three separate warrants for the collection of taxes, as follows: One warrant for the collection of state, county, town and town district taxes, one warrant for the collection of village taxes, and one warrant for the collection of school taxes.

Under this act the only duty left to the board of trustees of the village in relation to the assessment and collection of taxes for village purposes, is that such board of trustees may fix and determine "The amount of the annual tax of each village." All other duties in reference to the assessment and collection of village taxes for village purposes are transferred to the town officials designated in the act. From those of its provisions which have already been mentioned, it is evident that the purpose of the act, so far as villages are concerned, is to withdraw from local village officials, the power to assess and collect taxes for village purposes and to transfer these duties to town officials.

The constitutionality of the Westchester County Tax Act is challenged upon several grounds. It will only be necessary to consider one of the grounds urged. It is claimed that the act in so far as its provisions affect the assessment and collection of taxes, within the incorporated villages of Westchester county for village purposes, is in violation of Section 2 of Article X of the Constitution of the State. In this section it is provided that: "All city, town, and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages or of some division thereof, or appointed by such authorities thereof, as the Legislature shall designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers, whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct."

Embodied in this section is the home rule principle under which the right of self-government is secured to the localities of the State. It includes those rights of self-government which relate to the assessment and collection of taxes for village purposes which the villages enjoyed prior to the adoption of the present Constitution. Taxation for such a local purpose is the concern of the village rather than the town, county and State of which the village is an authorized subdivision. Within this limited local sphere the right to control the assessment and taxation of property for village purposes is a right which the village enjoys by virtue of the home rule provision of the Constitution.

It is not merely a privilege which the village is permitted to exercise by the courtesy of the Legislature. The Legislature has the power to "provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit so as to prevent abuses in assessments and in contracting debts by such municipal corporation," but it cannot take away those

local rights of self-government which the municipal corporation enjoyed when the present Constitution was adopted. Thus under our present Constitution, the village, while the smallest political subdivision established by the Constitution, is as secure in its rights to the enjoyment of local self-government as are the cities and towns of the State. It remains to be determined whether the Westchester County Tax Act deprives the incorporated villages within Westchester county of the right of local self-government which it enjoyed when our present Constitution went into effect on January 1, 1895.

It is manifest from the statements made above as to the provisions of the Westchester County Tax Act that those functions formerly performed by the local authorities are taken away from such village authorities and vested in the officials of the township. That is, under the provisions of that act a particular incorporated village may be assessed and taxed for village purposes by a board of assessors none of whom are residents of the village. The powers of the board of trustees in so far as they are local and act as village assessors are entirely abrogated, and the powers formerly discharged by those officials are vested in the officials of the township. The provision of law which accorded to each village the right to have its village taxes collected by an assessor elected by the qualified electors of the village is taken away, and the duty of collecting taxes is vested in a receiver of taxes, elected or appointed by the township, city, or incorporated village. * * * This and similar provisions leave no doubt * * * that the right to tax is attempted to be invaded by the provisions of the Westchester County Tax Act. Such invasion of the local rights of the village or township is in direct violation of the home rule provision of the Constitution. It follows, therefore, that the provisions of the Westchester County Act is an attempt to deprive the villages of their right to tax for village purposes, in contravention of the Constitution, and void. It not only provides a new method or manner, but strips the local village of every vestige of authority which they formerly held in this respect. The important functions of assessment and collection are automatically taken away from the village authorities."

Now, it was upon that reasoning that the Court of Appeals held that the Westchester County Act was unconstitutional; similarly the lower court held that the Nassau County Act was an unconstitutional act, because in Nassau county they attempted similarly to centralize their method of assessment. There they went so far as to have a receiver of taxes for the entire county, and you will see from this decision that they took away the function of

the collection of taxes from the collectors of the various tax districts within the county and put that function in a receiver of taxes for the whole county. That those forms of administration are desirable there can be no question. That they are wanted by people in various parts of the State is indicated by the fact that the Legislature has passed two such acts. Those of us who are from the city of New York are very familiar with the idea of a centralized tax administration. In the city of New York we have one set of assessors assessing five counties. In New York, we have one receiver of taxes for five counties, and so there we have centralization, of the tax functions of five counties; and that is why in this proposal we have provided in the third section that for the assessment of real property heretofore locally assessed, the Legislature shall establish tax districts, none of which, unless it be a city, shall embrace more than one county, for the city of New York already embraces five counties.

I have stated that this third section makes possible the county assessments which are desired and which are unconstitutional under the present Constitution; so that as far as the assessment of real estate is concerned, we still keep in the Constitution the provision for local assessors and local collectors, but make it possible to centralize as far as county lines.

Now, the other sentence, the last sentence, in the third section of the article, provides —

Mr. J. S. Phillips — I would like to ask the gentleman if there are any counties upstate that have asked for this particular proposition besides Westchester county and Nassau county?

Mr. M. Saxe — Not to my knowledge.

Mr. J. S. Phillips — Do you know of any real demand for it from counties upstate?

Mr. M. Saxe — I know of none personally, but I know this, that when the counties of Westchester and Nassau are permitted to have such legislation, it will be a matter of a very short time before the rest of the counties follow, and you will find before the next Convention that the county system will be the uniform system throughout the State of New York.

There is one sentence in connection with Section 2 that I desire to amplify further, and that is the last sentence of Section 2: "The Legislature shall provide for supervision, review and equalization of assessments." Now it is very important that we should have proper laws, adequate laws provided for the supervision, review and equalization of assessments in this State, and on that point I desire to present for your consideration the observations of Judge Woodbury the present Attorney-General of the State.

Mr. Wagner — I wanted to ask the delegate whether or not it would make clearer the last sentence of Section 2 if before the word "supervision" you put in the word "State": "The Legislature shall provide for the State supervision, review and equalization of assessments" — that is what you intended, I take it?

Mr. M. Saxe — There is no question about that, and there is no objection to that.

Mr. Wagner — Would not that make it absolutely clear just what was meant by this provision? The judicial review, or a review by a county board — what you are trying to get away from is perhaps the local interest, and to have some impartial body do this equalizing.

Mr. M. Saxe — I am dwelling first on supervision. What the Senator from New York says is perfectly correct. If he thinks it would make it any stronger to use the word "State" before "supervision," we should welcome such an amendment. I think, however, when we read it into the Record of this Convention, just what we mean by these words, I think we can make it just as clear; but there is certainly no objection —

Mr. Wagner — Would it not be better to have it now stated in there so that it would relieve us from the necessity of going back to the debates in order for us to determine what the Convention meant? The word "State" would clear the thing up.

Mr. M. Saxe — As I said before, it is a very good suggestion.

Mr. J. G. Saxe — Are not lines 6 and 7 on page 2, that you are just referring to, general enough to include all of lines 18 to 21 in the same page?

Mr. M. Saxe — Will the gentleman please restate his question?

Mr. J. G. Saxe — Lines 6 and 7 read, "The Legislature shall provide for supervision and review, for equalization of assessments", and in lines 18 to 21 the Committee on Taxation has apparently included the Smith bill, "The Legislature may empower State authorities to review the assessment of real property", etc., but that is fully covered in lines 6 and 7, it seems to me. Isn't that so?

Mr. M. Saxe — Well, there was some difference of opinion as to that.

Mr. J. G. Saxe — Can there be any difference of opinion as to it?

Mr. M. Saxe — There has never been a moment, in my experience in this Convention, when there has not been a difference of opinion as to the language of any proposition. We can thresh that out when we come to a discussion of Section 4. As far as I am concerned, I am satisfied that enough legislation could be enacted under lines 6 and 7 of Section 2 to cover everything in Section 4,

but Section 4 was put in at the suggestion of Mr. Smith from New York, who desired something in particular language, to carry out his ideas.

Mr. J. G. Saxe — The reason why I interrupt is not to criticize, but to carry out the suggestion of Senator Wagner. So far as this general provision is concerned, if we use that language, it seems to me the Legislature may empower the State authorities to supervise, revise and equalize, and you would have exactly what you want, without putting in lines 18 to 21.

Mr. M. Saxe — I am afraid the gentlemen from New York will find they will meet some opposition further along up the State, and will find Section 4 a friendly compromise.

Mr. Wagner — Will the delegate yield? This is the last time, I promise, that I will interrupt, although I think the interruptions are profitable.

Mr. M. Saxe — I enjoy interruptions.

Mr. Wagner — I mean your answers are profitable. Would it not improve the sentence in Section 2, lines 6 and 7, if you add the words, "The Legislature shall provide for State supervision, review, reassessment and equalization of assessments."

Mr. M. Saxe — From the standpoint of tax administration, it is very desirable; it would improve it considerably. But I would like to suggest to the gentleman from New York that it was not possible for me, even as Chairman of the Committee on Taxation, to write this article exactly as I should like to have it written. The gentleman must bear in mind that to a very considerable extent this article is the result of compromise, and perhaps, after all, all progress is only obtained by some compromise. Now, if it is possible to secure these amendments which the gentleman suggests, I concede that they are very desirable. With relation to this question of the supervision of assessments — and I am glad that the gentleman from New York has called attention to the subject by his suggested amendments, because here we have the present Attorney-General of the State and former Chairman of the State Board of Tax Commissioners, pointing out just what is needed with respect to supervision of assessments — I shall read from an address which Judge Woodbury delivered at the Seventh National Conference on State and Local Taxation at Buffalo, in October, 1913. Judge Woodbury said, and I bespeak your earnest consideration of these words, because they are exceedingly important upon this question:

"New York needs a proper system of supervision of assessment for taxation purposes, with power vested in the State Tax Commission to enforce the law respecting assessments, which requires that all property shall be assessed at full value.

"There are only a few tax districts in the State where the assessors make any pretense of assessing property at full value, as required by law.

"Under-assessment is the rule throughout the entire State, and in nearly all tax districts intentionally and purposely so. In most cases the assessors make their own law as to the basis of assessing property in deliberate violation of the statute, and then proceed to make oath to the assessment-roll that they have assessed all property at its full value.

"As a direct result of this haphazard method of assessment, — this practice of under-valuation at varying rates, coupled with the failure to properly equalize assessments, there exists in this State great inequality in the burdens of taxation among taxpayers.

"We cannot hope for any substantial betterment in respect of these conditions until we make it the duty of some central authority to supervise assessments, and give to that central authority the power to enforce the law. This power and duty should be vested in the State Board of Tax Commissioners, and, as aid, I would establish a system of county supervision. Each county should have a supervisor of taxes, appointed by the State Board, upon competitive examination, who would be under the direction of, and answerable to that Board, and be removable by it for cause. The duty of these officers should be prescribed by statute and the State Board, and include the investigation of methods of assessment, the basis of assessment in every tax district of the county, the gathering, preserving and reporting statistical information as to the value of properties and the assessed value thereof, the giving of aid and advice to assessors in the various districts (without interfering with the prerogatives of their office), so as to better enable them to discharge their duties as respects the proper form of assessments, and in arriving at the value of property with which they are not familiar. The State Board should be given the power to set aside an entire assessment-roll and order a reassessment, where it shall appear that the assessors have failed in assessing property as the law requires. This power would rarely have to be exercised, because the existence of the power and the knowledge that it would be exercised if necessary, would usually have the desired effect of securing compliance with the law on the part of assessing officers."

Now there it seems to me is the expression of very expert opinion — the present Attorney-General of the State and former Chairman of the State Board of Tax Commissioners. But he is not alone in commenting upon the situation in the State of New York. If you will bear with me, I would like to give you some of the views of Dr. T. S. Adams, State Commissioner of Taxes of the

State of Wisconsin, concededly the leading tax administrator in the United States. The results of his work in the State of Wisconsin, in the improvement of the administration of the tax laws of that state is something that every state in the United States could study with profit, because the State of Wisconsin to-day has the best system of taxation administration of the entire country.

Dr. Adams was in New York last January and at a meeting at the Lawyers' Club in that city he expressed some views with respect to the development of systems of taxation and I shall take some of his expressions. He says:

"We have then got to have in this assessment work some centralizing, unifying agency. That follows not only from the facts of the case, but it is confirmed by experience. All over the country, state centralization of taxation has quite unconsciously been developed and introduced. We have State Tax Commissioners in forty different states and officers practically performing the same function in some of the others.

"A central agency is very necessary to equalize property for the state tax as we have to do in the State of Wisconsin. The first year when it was done thoughtfully and systematically, it was found that some counties had been paying as much as forty per cent. too much state taxation and other counties forty per cent. too little. That is to say, had not a proper equalization been made differences so great as that would not have been noticed.

"We must also divide the county tax among the various local subdivisions of the county. The towns must make a conscious equalization for that. The amount of money involved in these processes is very great, and none of them can be performed without conscious study, deliberate study and in particular the collection of facts. In Wisconsin we have undertaken to do that work carefully. We collected a large amount of statistics to ascertain the real value of property in different districts. We collected hundreds of thousands of real estate sales for use and we have got now practically every sale in the State of Wisconsin, and have developed relations with real estate men so that they give us the facts quite freely. * * *

"If you want tax laws administered in a particular way, you have got to have some central agency, some kind of tax commission, and the first thing that tax commission could do, and, on the whole, the most helpful thing that it could do, would be carefully to collect concrete facts as to the way your present tax system is working. Educate broadly. I don't mean to educate broadly about what should be done, but educate until everybody knows how the system is working. The fact of the matter is, almost

nobody knows how the tax system is working. They don't know the facts. There are a lot of tax problems no expert can answer. We don't know anything about them; that is true; but if we administer what tax laws we have and get the facts about their workings, publishing them, get them into the public mind, the correction will take care of itself, I think.

"I think a State Tax Commission, however, or a central agency of some kind, not only is necessary to get uniformity and get facts, but I think it offers a practical working tribunal for the correction of tax discrimination for certain kinds of defects in the administration of taxation remedies. In most states, if the assessors make a glaring error, a procedure in the courts will upset the assessment and give a remedy. But it is almost impossible in the ordinary case to get redress for that sort of general discrimination which is so common, the kind that I have said is common in practically all unregulated assessments.

"Now, there ought to be some place in the State where a class that is discriminated against can get ready redress. Any individual in the State of Wisconsin can on a postal card, or in any informal way, apply to the State Tax Commission, merely stating that the assessment in his or her district is unlawful and discriminatory, and we will thereupon go into the matter and ascertain if it be true. We then may go in and make an assessment of that district at the expense of the town but with our own men. Now, that is the most powerful instrument in the State of Wisconsin for the achievement of tax justice and the improvement of tax administration in the State. It not only corrects injustice, but its big administrative side is that it forces the local assessor to do relatively good work.

"The club we have over his head is this: 'If you don't take the time and pains and the care to make a good assessment, somebody will appeal, a reassessment will be made at the expense of the town and your work done all over.'

"The reassessment is done by the State Commission with its own assessors. We keep a set of men whom we practically use for that purpose all the time. It is a cumulative remedy. The advantage of this thing is that we have the facts there and when one of these complaints comes in we can tell from our records whether there is likely to be any ground for it or not. We have records that make it possible for us to know all about the condition of taxes and assessments, and in nineteen cases out of twenty we can straighten the matter out.

"We have a state like yours. One city dominates our state in the sense that yours does New York State. Tax conditions, however, are very much better in the city of Milwaukee since the

Tax Commission was created. I think sometimes adherents of home rule get afraid of these central bodies and think they will be unnecessarily officious in taxation. That has not been true of the city of Milwaukee, simply because we have had a good Tax Department in that city.

"You have got to have centralization. Centralization is unpopular. Now, this reassessment statute is the popular way of achieving an unpopular thing that has got to come. That is, as I see it, the strategic importance of the reassessment statute. Instead of having a board that shall control these things only here and there, to get uniformity and justice, we need to have a central state tribunal to which we can appeal in the most informal way, and have wrongs redressed. But the big aspect of these appeals and corrections is to get that administrative sanity and health that you are seeking."

Then he goes on to show more in detail just how the State Tax Commission of Wisconsin works out and has worked out its problems there. But he is not alone in his criticism of the backwardness of the State of New York. I have before me the expression of Professor Charles J. Bullock, Professor of Economics, Harvard University, in an article entitled "New York's Taxation Problem," published in the Real Estate Magazine in April, 1914. He reviews the situation with respect to assessments all over this State and in one part of this very excellent article he says:

"The obvious present need in New York is the development of the State Tax Commission into a body clothed with ample power and resources to control in an effective manner the administration of the tax laws of the State of New York. In such action Wisconsin and other states have already led the way, and can supply the needed model. Students of taxation are generally agreed that the task of the immediate future in every state is to perfect methods of administration, and that without better administration mere changes in legislation are likely to be largely or wholly futile."

Now, Mr. Chairman and gentlemen, when one recognizes the tremendous indebtedness of the State of New York and of the municipal divisions of the State of New York, one can get a faint notion of the tremendous burden of taxation that is borne by the people of this State, and borne most patiently I want to add emphatically. Now something has got to be done to distribute that burden more equitably than it is distributed at present. There are certain classes of property that are sorely burdened; there are other classes of property that escape almost entirely, and so the burden is lumped here and is lumped there and it is not spread evenly, fairly, equitably and honestly as it ought to be

spread, particularly in view of its great weight upon the people of this State.

Mr. Schurman — The gentleman yields for a question. I should like to ask if real estate is a species of property which is overburdened at the present time?

Mr. M. Saxe — In comparison with personal property there is no question but that real estate is heavily overburdened at this time, but I would say this, that in a very large number of the tax districts of this State where real property is under-assessed that makes the burden all the harder upon the small real estate owner, because when you come to under-assessment, the man with small property, the man whose property amounts to but a very few thousand dollars, has his property assessed nearer its full value than the man who owns a very valuable piece of property. By the process of under-assessment, the man who owns a very valuable property is assessed at a much smaller percentage of the true value of his property than the man who owns a property of small value, and that is where the great injustice from under-assessment comes in.

Now I think I have clearly explained that the third section again imposes a home rule provision with respect to the assessment of real property, permitting centralization as far as county lines. In that section there is a sentence to which I will now address myself: "The Legislature may, however, provide for the assessment by State authorities of all the property of designated classes of public service corporations." The reason for that is: To-day the real estate of public service corporations which is contiguous in its nature, like a railroad right of way, like the right of way of a telephone or telegraph company, running through a large number of tax districts, is assessed by different sets of assessors in each tax district through which it runs, with an utter disregard of uniformity of assessment, and naturally, as the tax assessors in one tax district have no relation to the tax assessors in the next tax district, and so on; as a result of that, you have the same class of property, the same width of land with the same improvement upon it, such as rails, ties, telegraph poles and so on, assessed at varying assessments, all through the length of the line; a railroad right of way assessed in this tax district at \$5,000 a mile and in the next tax district at \$10,000 and in the next at \$12,000, and then at \$8,000 and so on — absolutely no uniformity — and yet it is the same property, occupying practically the same area.

Now we want to make it possible to have a central body assess all the property of designated classes of public service corporations. We want to make it possible to centralize the assessment

of the real estate of those corporations which otherwise would still have to be assessed locally under Section 3 of this article because it is real estate within a tax district. We want to make it possible to have that real estate assessed by the State body so that you could assess the property as a whole, and if you wanted to have a gross earnings tax upon all the property, including its segregated real estate, you could make it possible under this proposed article. And bear in mind that the word "assessment" is used here not alone in its technical sense of the assessment of real estate, but as equivalent to valuation for the purposes of a gross earnings tax, if that is desirable. The word "assessment" is used here as equivalent to the determination of the base to which the rate is applied, in order to determine the tax.

We have an illustration of this centralization of the taxation of public service corporation property in the special franchise tax. There the right to operate in a highway, over or under it; in the public street; or over or under public waters, together with the property that is used in such operation, is termed a special franchise, although it is real estate and it is assessed by a central body. As was pointed out in the Metropolitan Street Railway Case, it was not feasible to assess that property through local assessors for the very reason that I have indicated, that railroad property and telephone and telegraph property, which is contiguous, running through a number of tax districts, cannot be assessed uniformly by different sets of assessors. So we want to make it possible to centralize taxation, in any form or manner that the Legislature may see fit, of designated classes of public service corporations.

Now that takes me to the last section of the article.

Mr. Low — About the earlier part of Section 2 — the first line reads, "Taxes shall be imposed by general laws and for public purposes only." I want to be sure that I understand the bearing of that provision as it relates to home rule for cities. Am I right in supposing that it is intended to mean that the same subject shall be taxed in all cities, and that cities shall not have the right to have a different tax system according to their respective ideas?

Mr. M. Saxe — Not at all. Under a general law, the Legislature may classify cities or different classes of cities in groups, or it may even practically pass a law which would be special, as, for instance, if it said, "Cities of five million inhabitants" — that would be a general law, and yet there would be only one city that would come within it. Therefore, it is perfectly possible under this to enact practically a special law, if necessary and desirable.

Mr. Low — It would depend upon the Legislature of the State whether that should be done?

Mr. M. Saxe — Exactly.

Mr. Low — Would it in any way interfere with the city licensing different occupations if a city cared to do that and had the authority?

Mr. M. Saxe — I cannot see how it would, in the slightest.

Mr. Low — The next sentence of that section reads, "The Legislature shall prescribe how taxable subjects shall be assessed, and provide for officers to execute laws relating to the assessment and collection of taxes," etc. I suppose that the phrase "provide for officers" does not mean that the State is to do that necessarily through state officials, but to provide what officers in localities shall do the assessment, which is the right interpretation of it.

Mr. M. Saxe — Exactly, Mr. Chairman.

Mr. Dykman — I call the attention of the delegates to lines 15, 16 and 17: "The Legislature may, however, provide for the assessment by state authorities of all the property of designated classes of public service corporations." Is the intent of the bill that this shall be operative over public service corporations operating only in one tax district? Is it the intention that a company operating in the Borough of Manhattan exclusively shall have its real estate assessed in Albany?

Mr. M. Saxe — Mr. Chairman, that is possible, but undoubtedly the Legislature would not provide such a law except in a necessary case. It is possible, under this language, to provide that the property of a public service corporation operating wholly within one county might be assessed by state authority.

Mr. Dykman — And, equally it would be possible to take away from the authorities of New York City the right to assess the personal property or real estate of a lighting company confined to one borough, under this method.

Mr. M. Saxe — It would be possible to enact such legislation and make it constitutional, and it might be very desirable to do so.

Mr. Dykman — I should like to have explained from what standpoint it would be advisable to take away from the authorities of New York City the right to assess the real estate of a corporation operating only in Manhattan Borough and its personal property likewise.

Mr. M. Saxe — I will be very glad to answer that, and the answer is this, that you have state regulation of public service corporations; that these public service corporations have their prices fixed by state authority; that if they are taxed, that tax has to be considered in fixing their rates, and the people who not alone use that property, but the people at large, pay those taxes and not the corporation. Now that is the truth of the situation. The burden of taxation which supposedly was put upon the corporation, because you had the cry to tax the corporations before

you had the rate-regulation cry — that burden which was put upon the corporations is shifted to the people through rate-regulation, and therefore it may be very desirable to have the State tax these corporations, because the State regulates the price at which they sell their commodity to the public.

Mr. Wiggins — Do you think that the subject of taxation should in any sense depend upon the rate which has been established by any of the public service commissions in the sale of any of the commodities which any of the corporations have to dispose of?

Mr. M. Saxe — I don't, Mr. Chairman, but when it comes to regulation of the rate, they have to consider the amount of taxes that the corporation is called upon to pay, and that is an operating charge.

Mr. Wagner — Will you be good enough to explain to us just what increased power you are attempting to give the State over these public service corporations, so far as taxation and assessment are concerned, which the State does not now enjoy?

Mr. M. Saxe — Why, we are making it possible to take away from the local assessors the assessment of their real estate which may be a very large factor in certain classes of corporations. Supposing it were advisable to assess a railroad system as a whole. We know now that the modern tendency in railroad terminals is to build a very costly structure. Now you take a railroad terminal which involves perhaps an office building and a hotel, and one, I understand, is to be built which will have a theatre, and possibly there will be one with an opera house very soon. Now that property being real estate is all assessed locally, but here is a part of the property which is a very large contributor to the gross earnings of the entire property, and if you wanted to treat that as a whole, if you wanted some central body to assess that property as a whole, it may not be done under your present Constitution because that local real estate must be assessed by the local assessors, whereas if you permit of the assessment of all the property by the central body, they can take the whole property and treat it in its entirety.

Mr. Wagner — Why do not you include in this empowering the State to assess real estate all over the State and not alone the real estate of public service corporations?

Mr. M. Saxe — Mr. Chairman, does the gentleman really desire a serious answer?

Mr. Wagner — Yes, I do.

Mr. M. Saxe — Well, because in the first place I believe that, as a general rule, real estate ought to be locally assessed; and, secondly, the gentleman will agree with me, when I tell him that

if I desired such a proposition as he advances, my committee would not have reported it.

Mr. Wagner — That is the point I desire to bring out, that no doubt, the committee being convinced that the public service corporations hold their real estate mainly within the city of New York, that would be less harmful to give the State authority to do what it likes with New York city, but when it applied to the rest of the State there was a serious protest — is that stating the situation pretty accurately?

Mr. M. Saxe — No. I cannot say, Mr. Chairman, that there was any particular discrimination in my committee against the city of New York, and, so far as these provisions are concerned, they are equally applicable to every part of the State. It is true there is perhaps more valuable property in the city of New York than in the rest of the State generally. Are there any further questions with respect to that sentence?

Mr. Wagner — I think we understand.

Mr. Parsons — Have you yet explained the meaning of the word "how" in the second line on page 2; the question which was asked of you the other day, as to the sentence "The Legislature shall prescribe how taxable subjects shall be assessed"?

Mr. M. Saxe — In answer to that question, I will say that the word "how" was used as a substitute for the two words "method" and "manner," which were in the original draft considered by the committee. "The Legislature shall prescribe the method and manner of assessing taxable subjects" was the language in which we first considered it. That means broadly everything with respect to the assessment of property. That means officers who shall perform the duty, and the method that they shall pursue in the performance of their duty; and the words "taxable subjects" mean anything and everything that can be reached by taxation. It is used here as a universal expression. Does that answer the gentleman's question?

Mr. Parsons — Yes.

Mr. M. Saxe — With respect to the fourth section, Mr. Chairman, it is provided "The Legislature may empower State authorities to review the assessment of the real property of any municipal corporation not within the limits of such corporation and to order a reassessment thereof subject to judicial review."

The purpose of that section was to give relief in the cases of real property owned by a municipal corporation outside of the limits of such corporation, it being contended that in many instances where a municipality owns property located in a tax district over which it has no control, that it is rather arbitrarily discriminated against. With respect to that particular section

there are other members of the committee who are more familiar and more concerned with that situation than I am, and I yield to them. I look upon it as a desirable feature of the tax article, and not essentially necessary to the tax reform we are seeking to make of the article as a whole,—

Mr. Quigg — Mr. Chairman, I notice General Order Number 10, which I direct the gentleman's attention to, dealing with this same subject, introduced by Mr. Smith.

The gentleman is undoubtedly familiar with that.

Mr. M. Saxe — Yes, sir.

Mr. Quigg — It appears to deal with the same subject.

Mr. M. Saxe — It does.

Mr. Quigg — It provides that, the Legislature may provide that the valuation for the purposes of taxation of property of any municipal corporation located within the boundaries of another municipal corporation may be reviewed and fixed by designated State authorities.

Now, I asked the gentleman whether his proposition and this proposition mean that property of the city of Buffalo, located in the county of Erie, outside of the city of Buffalo, is to be taxed by the State.

Mr. M. Saxe — No. Oh, no.

Mr. Quigg — Is not a county a municipal corporation just as well as a city, under the law?

Mr. M. Saxe — If the gentleman will bear with me for a moment. Neither of these sections provide for assessments by the State. The one in our article, the one in the article of the Committee on Taxation, provides that, the State authorities may review the assessment of the real property of a municipal corporation, not within the limits of such corporation, and order a reassessment thereof, subject to judicial review.

In other words, if the property is not properly assessed in the first instance, then the State authorities may order a reassessment, but that order is subject to judicial review before the order may be enforced, and even then, under it, the Legislature might provide that the reassessment would have to be made by the same assessors who made the original assessment, and I think the gentleman will find that when Mr. Smith addresses himself to this provision that he will object to it on that ground, because he makes the point that if the property is to be reassessed by the same assessors, they will come back and make the same assessment over again.

Mr. Quigg — Then, does the gentleman understand Section 4 of his proposal to be antagonistic in terms,—

Mr. M. Saxe — I wish the gentleman would not refer to it as my proposal, but that of the Committee on Taxation.

Mr. Quigg — Yes,— of the Committee's proposal to be antagonistic in terms to the section in Mr. Smith's proposal. I am somewhat confused by it.

Mr. M. Saxe — No, Mr. Chairman. We rather tried to harmonize the two proposals. If the gentleman will bear with me for a moment I will try to make that clear. The Smith proposal as reported by the Committee on Legislative Powers, is not the Smith proposal as he introduced it, but as the Committee on Legislative Powers reported it. That proposal reads: "The Legislature may provide that the valuation,"—that is the same as the assessment — "for the purposes of taxation of property of any municipal corporation located within the boundaries of another municipal corporation may be reviewed and fixed by designated State authorities."

Now, under that language, the State authorities will review it, and if they find the assessment is erroneous, they may fix the assessment, final. But, under the proposal as reported by the Committee on Taxation, the State authority may only order a reassessment, and that order of reassessment is subject to a judicial review, and unless the order of reassessment is affirmed, why, there could be no reassessment, and if the order of reassessment is affirmed, why then there may be a reassessment by the very assessors who made the original assessment, if the Legislature so prescribes, and in that case perhaps no improvement would result at all.

Mr. Quigg — I think I understand that but calling the gentleman's attention to Mr. Smith's proposal where it says: The Legislature may provide that the valuation for the purposes of taxation of property of any municipal corporation located within the boundaries of another municipal corporation, may be reviewed, and so forth.

Now, does not that mean that the property of a city located within the county in which the city is, may be reviewed and fixed by designated State authorities?

Mr. M. Saxe — It does.

Mr. Quigg — They are both municipal corporations?

Mr. M. Saxe — Certainly.

Mr. Austin — I would like to ask whether this judicial review applies to the original assessment, or to the order for a reassessment, or to the reassessment? I cannot tell from the way this reads.

Mr. M. Saxe — Mr. Chairman, while I assume that could be better determined by the particular act of the Legislature which

might be enacted to carry out this provision, I should say that ordinarily it might be construed to mean that the State authority could order the reassessment, and that order might be subject to the judicial review, or the Legislature could provide that the State authority might order a reassessment, and after the reassessment was made, that that reassessment might be subject to judicial review.

I hardly think the latter construction is necessary, because in any event you can obtain judicial review through certiorari proceedings.

Mr. Austin — Is it not a fact taking the literal meaning of this sentence, that in order to review the assessment of property of an ordinary individual, you would simply obtain your writ of certiorari and review it, and that is the end of it; but as to the property of a municipal corporation, after the assessment was made, you must first obtain an order of the Tax Commission or the designated State authority for a reassessment, and then, the reassessment having been made, you must get your writ of certiorari to review that.

In other words, you have got to go through four proceedings for the review of a municipal corporation assessment, where you have only one for others.

Mr. M. Saxe — Mr. Chairman, such a course would be possible under it. I think that will conclude the explanation of the article on taxation.

Mr. Parsons — Suppose that the city of New York desired to assess for purposes of taxation the kind of property which other cities in the State of New York did not; that it used certain kinds of property not common to other cities; would it be possible for the Legislature to authorize it to do so under this provision? Would that be under the first sentence in Section 2?

Mr. M. Saxe — Mr. Chairman, it would.

Mr. Parsons — That is, it would be a general law applicable to a city of five million inhabitants?

Mr. M. Saxe — Yes, sir.

Mr. Parsons — Would that also enable the city of New York, — or under your amendment, will it enable the city of New York to impose a higher rate of taxation on certain kinds of property than on others?

Mr. M. Saxe — If it were drawn as a general law, without any question, it could be done, but the very purpose of making the use of a general law as the vehicle is to arouse the attention of all the legislators to the fact that it is something that may concern

all localities; not, perhaps, in the particular case where the language is so specific that it would not fit them, but it would certainly call their attention to a study of the question; whereas, if you did it by some specific law, they might not even read the bill because they would say, "Well, that does not concern us at all."

I have practically concluded my remarks, Mr. Chairman.

Mr. Wickersham — I move that when the Committee rise, that it report progress on this measure and ask leave to sit again.

The Chairman — Does the gentleman from New York insist upon his motion?

Mr. Wickersham — No, I withdraw my motion. I made it, because I thought the discussion was over.

The Chairman — The motion is withdrawn.

Mr. Dykman — Mr. Chairman, I move to strike from the bill in lines 15, 16, 17 on page 2, this sentence: "The Legislature may, however, provide for the assessment by State authorities of all the property of designated classes of public service corporations"; and I ask that that motion lie upon the table until the whole matter is voted upon.

Mr. A. E. Smith — I would like to propose an amendment and ask that it also lay on the table until such time as the measure is again under discussion: On page 2, line 6, after the word "the," the second time it appears, insert the word "state", so that line 6 would read: "The Legislature shall provide for the state supervision, review and equalization of assessments".

I would also ask further to amend it by striking out all of lines 18, 19, 20 and 21.

Mr. Wickersham — Mr. Chairman, I renew my motion, that when the Committee rise, it report progress and ask leave to sit again.

The Chairman — The question is upon the motion of the gentleman from New York, Mr. Wickersham, that when the Committee rise, it report progress on this bill, together with the two amendments, and ask leave to sit again.

The question is upon the adoption of the motion. Those in favor of it say Aye, opposed No. The motion is carried.

The Secretary — No. 760, general order No. 29, by Mr. Austin.

Mr. Austin — I make the usual motion with reference to this amendment, and in a very few moments I can explain its purpose.

It strikes from Section 5 of Article V, of the Constitution, the provision that the Lieutenant-Governor, Secretary of State, Comptroller, Treasurer, and Attorney-General shall be the Commissioners of the Canal Fund, and provides that the duties and powers of the Commissioners of the Canal Fund shall hereafter vest in and be performed by the Comptroller. That was the original

amendment, and to that the Committee has added the words "subject to the power of the Legislature to alter and repeal the same".

I might say that this proposal has been recommended by every Comptroller for the past fifteen or twenty years, to my personal knowledge, and it was for that reason and from the information which I gained when I was an employee in the Comptroller's office, that I was led to introduce this amendment. The powers and duties of the Commissioners of the Canal Fund are very inconsequential at the present time. They are provided for in Section 48 of the Canal Law, and Sections 61 and 65 of the Finance Law; and are simply these: Section 48 of the Canal Law authorizes the Commissioners of the Canal Fund to allow claims for moneys paid by the Superintendent of Public Works, or his subordinates for judgments recovered against them for acts done in their official capacity, or for costs and expenses incurred in actions instituted by them on behalf of the State. Everybody will concede that that is not a very important function for a body which is recognized by the Constitution. The other duties of this body are provided for by Sections 61 and 65 of the State Finance Law, which provides that the Canal Debt Sinking Fund shall be managed by the Commissioners of the Canal Fund; and this provision of law makes the Comptroller's presence necessary for a quorum of this body, so that they cannot act unless he is present. The Finance Law also provides that investments for this fund shall be made by the Comptroller, subject to the approval of the Commissioners of the Canal Fund and that they may provide and prescribe rules and regulations for such investments and for the form and nature of the securities and bonds which are issued by the State.

Mr. Wickersham — Does not the bill which the Committee on Governor and Other State Officers has under preparation and is about to report, and which deals, as we understand, with the duties of the Comptroller, have some relation to this particular measure?

Mr. Austin — Possibly so.

Mr. Wickersham — And in your opinion, would not it be better to defer any action on this measure until the other one is before us?

Mr. Austin — I am perfectly willing to do that, Mr. Chairman.

Mr. Wickersham — My attention has just been called to that, and I, therefore, ask Delegate Austin this question.

Mr. Austin — I am perfectly willing to have that done and perfectly willing to defer discussion of it until that time, although my remarks will be very brief on the subject.

Mr. Wickersham — I wish to say to the gentleman that I have

no intention of shortening his remarks or endeavoring to, but I am merely calling his attention to that fact, so that if he considered this might have relation to that bill, his measure be withheld until the other one is reported?

Mr. Austin — I am perfectly willing to withhold it, Mr. Chairman, and I only moved it because the Calendar, it seems to me, is becoming clogged up with a large number of bills which are not moved, and, of course, we cannot wait until the end of the Convention to move all of these bills.

However, with that understanding, I am perfectly willing to move that when the committee rise it report progress and ask leave to sit again.

The Chairman — The question is upon the motion of Mr. Austin that when the committee rise it report progress on this measure and ask leave to sit again. Those in favor of the proposition say Aye, opposed No. The motion is carried.

Mr. Wickersham — I move that the committee do now rise.

The Chairman — The gentleman from New York, Mr. Wickersham, moves that the committee do now rise. All those in favor of the motion will say Aye, opposed No. It is carried.

(The President resumed the Chair.)

Mr. Sheehan — As chairman of the Committee of the Whole, I am directed to make the following report.

The Secretary — The Committee of the Whole having had under consideration Proposed Amendment No. 752, Introductory No. 699, introduced by the Committee on Legislative Powers, reports progress thereon, together with the substitute offered therefor, and asks leave to sit again.

The President — The question is on granting leave to the Committee of the Whole to sit again on Proposed Amendment No. 752, Introductory No. 699 introduced by the Committee on Legislative Powers. All in favor of granting leave to sit again say Aye, contrary No. The leave is granted.

The Secretary — The Committee of the Whole having had under consideration Proposed Amendment No. 756, General Order No. 28, introduced by the Committee on Taxation, reports progress and asks leave to sit again.

The President — The question is on granting leave to sit again.

Mr. Wickersham — There was, accompanying that, a resolution of the Committee of the Whole, asking that two amendments which were moved be printed and lie upon the table. I move to amend the report by including that request.

Mr. Sheehan — Mr. President, I think the proposition to which General Wickersham refers is the proposition wherein there was an amendment or two offered to the pending proposition, and as

I understood the direction of the Committee, it was that when the Committee rise, it report progress on the proposition then under consideration, together with the propositions submitted as amendments, and that when the Committee rise it should ask leave to sit again on the proposition and on the amendments. That was my understanding.

The President — The question is on granting leave for the Committee to sit again upon the Proposed Amendment and the several amendments offered in Committee of the Whole. All in favor of granting leave will say *Aye*, contrary *No*. The *Ayes* have it and the leave is granted.

Mr. M. J. O'Brien — I understood that the motion which was made in Committee of the Whole would be reported here, to have the substitute to Mr. Barnes' proposition printed, General Order No. 23.

The President — That motion could not be made in Committee of the Whole. It should be made now.

Mr. M. J. O'Brien — I make that motion, Mr. President.

The President — Mr. O'Brien moves that the substitute referred to in the report of the Committee of the Whole be printed.

Mr. Parsons — Mr. President, does that mean printed on the calendar, or printed separately as a proposition?

Mr. Sheehan — Printed as a separate proposition.

Mr. Wickersham — Mr. President, isn't that on the calendar?

Mr. Sheehan — Printed for information.

The President — Under the motion it would be printed simply for the information of the members of the Convention. The Chair will put the question with that understanding.

The President — All in favor of printing the proposed substitute for the information of the members of the Convention will say *Aye*, contrary *No*. The motion is agreed to.

Mr. Mealy — Mr. President, I ask leave to offer the following resolution out of its regular order.

The Secretary — To the Constitutional Convention: I hereby announce that because of resignation and transfers to committees, the number of general stenographers, originally twelve, has been reduced to nine, and that, therefore, the demands seeming to require it, I have designated Maude McGuirk and Mary Dunphy as general stenographers to fill the vacancies thus created. (Signed) John K. Marshall, Official Stenographer.

By Mr. Mealy: Resolved, That in accordance with the designation heretofore made by the Official Stenographer, the Convention employ Maude McGuirk and Mary Dunphy as general stenographers at a per diem compensation of four dollars, the compensation to date from the date of this resolution.

Mr. Wickersham — That should go to the Committee on Contingent Expenses.

The President — Does the gentleman intend that to be a report of a resolution? Is there objection to the reception of the resolution?

Mr. Wickersham — Mr. President, I object. The resolution should go to the Committee on Contingent Expenses.

The President — It cannot go there if the gentleman objects.

Mr. Wickersham — I did not understand that was a report from the Committee on Contingent Expenses.

The President — The Chair understands it to be a resolution and it must be before the Convention in order to be referred to the Committee on Contingent Expenses.

Mr. Wickersham — I move that it be so referred.

The President — The gentleman withdraws his objection to the consideration of the resolution. The resolution is before the Convention. Under the rules it goes to the Committee on Contingent Expenses.

Mr. Low — I have received a telegram from Mr. Weed asking that he may be excused from attendance at the Convention for the session to-night and the sessions of Tuesday and Wednesday.

The President — All in favor of granting the excuse asked will say Aye, contrary No. The Ayes have it and the excuse is granted.

Mr. Wickersham — Mr. President, I move we adjourn.

The President — Mr. Wickersham moves the Convention do now adjourn. All in favor of that motion will say Aye, contrary No. The motion is agreed to and the Convention stands adjourned until 10 o'clock to-morrow morning.

Whereupon, at 10:30 P. M., the Convention adjourned to meet at 10 A. M., Tuesday, August 3, 1915.

TUESDAY, AUGUST 3, 1915

The President — The Convention will please be in order. Prayer will be offered by the Rev. Alexander Wouters.

The Rev. Mr. Wouters — Let us be bowed in prayer. Most holy and all-worthy God and Father, we humbly give Thee our confession of praise for the opportunity of popular government, the association of blessed ideals and the growth of the spirit of the democracy in this century. May these men be endued by the spirit and given the clear vision of the power of wisdom amidst the affairs of State, and grant that under Thine Almighty grace the interests that are so dear to the Commonwealth and that have

so strong a power and influence in the nation, and that do not but with greatest influence also affect the nations of this age, grant that that wisdom shall control and guide the deliberations of the day. We ask Thy blessing confident of Thy favor as we struggle to find the wise ways. Through Jesus Christ. Amen.

The President—Are there any amendments to be proposed to the Journal as printed and distributed? There being no amendments proposed, the Journal is approved as printed.

Presentation of memorials and petitions.

Mr. Brackett—I present various memorials against the adoption of the short ballot.

The President—The memorials will be referred to the Committee on Governor and Other State Officers.

Mr. Brackett—I have no objection. Mr. President, if you please, I present one on behalf of the Union League Club in favor of the short ballot.

The President—Same reference.

Mr. Wiggins—So many resolutions have been read dealing with the subject of the short ballot that it occurred to me that it might be desirable to the members of this Convention to have those resolutions read which deal with the continuation of the ballot in its present length and I should therefore like to make the suggestion that the Clerk read those resolutions or protests offered by Mr. Brackett.

Mr. Brackett—I hope that the gentleman will not press his suggestion. It would take all the forenoon to read them. There are so many of them that I hope he will withdraw the request.

Mr. Wiggins—Mr. President, it is music to my ears to hear something of that character, but at the suggestion of Mr. Brackett, I shall withdraw the request.

The President—Any further memorials or petitions? The Chair lays before the Convention a communication from the president of the Conference of Mayors of the State of New York, which will be referred to the Committee on Cities.

Communications from the Governor and other State officers.

Notices, motions and resolutions. The Secretary will call the roll of districts.

Mr. Griffin—I do not know whether it is in order at this time to make a motion to correct the calendar. But I notice that there is an omission on page 3 of to-day's calendar, respecting Introductory 679, Print No. 756, General Orders No. 28.

On Thursday of last week I proposed some amendments to that proposal. The amendment will be found on page 1008 of the Record, and I move that the amendment there contained be printed in the calendar.

The President — The Secretary informs the Chair that no request was made by the Committee of the Whole and no action was taken by the Convention regarding the printing of the amendment, and that it is not the custom to print amendments on the calendar unless specially directed. It is now moved that the amendment referred to be printed upon the calendar. I suppose the motion should indicate in the customary brief form. Will the gentleman indicate in some specific way the amendment, so that the Secretary can be certain?

The President. — It is moved that the amendment offered by Mr. Griffin and appearing in the next to the last paragraph on page 1011 in the Record be printed in the customary form upon the calendar in connection with General Order No. 28. All in favor of the motion will say Aye, contrary No. The Ayes have it and the motion is agreed to.

Mr. Brackett — On behalf of the gentleman from Westchester, Mr. Young, I move that the Committee of the Whole be discharged from further consideration of Reprint 717, relating to the literacy test for voters, that it be amended as indicated in the paper which I send to the Clerk's desk, reprinted, recommitted to the Committee and retain its place on the calendar.

The President — All in favor of the motion will say Aye, contrary No. The Ayes have it and the motion is agreed to.

The President — Reports of standing committees. Are there any reports of standing committees?

Mr. S. K. Phillips — The Committee on Contingent Expenses makes the following report, and I move the adoption of the resolution contained therein.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to the appointment of Charles H. Clark, as drafting clerk to the Committee on Revision and Engrossment, reported in favor of the adoption of the resolution.

The President — Is the Convention ready to act upon the resolution? All in favor of the resolution will say Aye, contrary No. The Ayes have it and the resolution is agreed to.

The Secretary — Mr. S. K. Phillips, from the Committee on Contingent Expenses, to which was referred the resolution relative to granting a leave of absence to Harmon J. Norton, on account of illness contracted in the service of the State, for ten days with pay, reported in favor of the adoption of the resolution.

The President — Is the Convention ready for the question?

All in favor of the resolution will say Aye, contrary No. The Ayes have it and the resolution is agreed to.

Any further reports of standing committees.

Reports of select committees?

Third reading?

Unfinished business of general orders?

Special orders?

General orders.

The Secretary will call the calendar.

The President — Three numbers on the calendar having been moved, the Convention will go into Committee of the Whole. Will Mr. Berri take the Chair?

(Mr. Berri takes the Chair.)

The Chairman — Gentlemen, we are now in Committee of the Whole. The Secretary will read the calendar.

The Secretary — No. 749, General Order No. 22, by the Committee on Education.

Mr. Blauvelt — Mr. Chairman, I was unavoidably absent during the early debates in the Committee of the Whole on this Proposed Amendment, and so what I have to say on the subject may be somewhat of a repetition of what has already been said in the Committee of the Whole. A consideration of this amendment necessarily involves consideration of Amendment No. 757, also introduced by the Committee on Education. The two are companion measures and must be read together in order to properly understand the scope of the Committee's report on the subject of education. Amendment No. 749: By that amendment it is proposed to state specifically in the Constitution that the supervision and control of the education of children is a State function and that schools, wherever located, are State institutions and not local institutions. Amendment No. 757 provides for the incorporation of local boards of education to act as agents of the State in the administration of school affairs in their respective communities. While it has been the educational policy of the State for more than a century to provide for the general direction and control of its schools, and the education of its children, a policy which has been repeatedly upheld by the courts, no provision has ever been written into the fundamental law that education is an inalienable, sovereign duty of the State. That is the purpose of these two amendments. The Constitution of 1777 is silent on the subject of education. So are the Constitutions of 1821 and 1846, with the exception of the provisions in each relating to educational funds. During these three constitutional periods, however, the Legislature gave much serious thought to the matter, and many statutes were passed initiating

and developing the educational policies of the State, the most notable of all being the Act of 1812 which laid the broad foundation upon which our system of State education has been constructed. Numerous other statutes were passed, each having its place in the gradual evolution of the system. The courts, from time to time, have construed these statutes and they have consistently held that while the local officers might administer the system they did so under powers delegated to them by the Legislature, and as agents of the State.

We now come to the Constitution of 1894 and to the work of that Convention. The Committee on Education reported to the Convention the present educational article containing four sections. The third section relating to school funds was continued from the former Constitutions without change. The other three sections were new and introduced new principles into our organic law.

In urging the adoption of this article the Committee concisely stated the educational system and the situation at that time. The Committee stated:

"The present Constitution" — that was of 1846 — "is silent upon the vital point of the establishment and maintenance of free common schools. It may be urged that no imagination can picture this State refusing to provide education for its children and for this reason, the declaration which your Committee here reported in Section 1 might, no doubt, be omitted without endangering the stability of our present educational system. But the same reasoning would apply to many other matters, though fundamental, and it is a significant fact that within the last half century of constitutional revision, in other States of the Union, no other State has considered it superfluous or unwise to make such an affirmation in its fundamental law. Your Committee, therefore, now recommends the adoption of Section 1 as an explicit direction to the Legislature to provide for a system of free common schools wherein all the children of this State may be educated. This requires not merely schools, but a system, and not merely that they shall be common, but free, and not only that they shall be numerous, but that they shall be sufficient in number so that all the children of the State may, unless otherwise provided for, receive in them their education."

The Convention adopted the report of the Committee and incorporated in the Constitution the existing article on education. Section 1 of that article reads: "The Legislature shall provide for the maintenance and support of a system of free common schools wherein all the children of the State may be educated."

This section has been construed to mean that all schools supported by taxation are a part of the common school system of

the State and subject to the supervision and control of the State, acting either directly through State officers or indirectly through local officers, as agents of the State.

Why then, it may be asked, is it necessary to write into the Constitution, in express terms, a provision that "education is a State function," and that no power in derogation thereof may be conferred by the Legislature upon the local authorities or any of its civil divisions?

My answer is two-fold. In the first place, when a governmental policy has become settled and fixed, it should be defined in the organic law in unmistakable terms.

In the second place, the question as to whether or not the Legislature may grant to local authorities powers in derogation of the fixed educational policy of the State remains unsettled. Unfortunately it has been quite generally the custom to incorporate in city charters laws controlling the local government of the school systems in the different cities of the State. This custom has in many cases caused municipal officers and local political organizations to regard schools as purely municipal affairs. Then, too, the fact that the law is in the charter presents the temptation to modify such law for political and personal reasons whenever a city charter comes before the Legislature for general consideration. This is fundamentally wrong and the adoption of these two amendments would settle the disputed question for all time and in no sense would their adoption change what is now the fixed policy of the State in matters pertaining to our educational system.

It is not sought by either of these two amendments to take away from the boards of education any of the powers they now possess. On the contrary, by making them constitutional agents of the State, their powers would be more firmly established. Nor is it intended to increase in the Board of Regents or the Department of Education their present powers of supervision and control over local school systems. The Department of Education now exercises by statute general supervision and control over the education system in the city of New York, as well as over the systems in other municipalities and subdivisions of the State. Should the board of education of the city of New York refuse or neglect to maintain the schools of that city according to the standards fixed by the Department of Education, and should the board of estimate and apportionment fail to make appropriations for educational purposes in the city of New York, power is now vested in the Department of Education to take control of school matters in that city as elsewhere and see to it that the laws are enforced and that the children receive the educational advantages accorded to them by the present Constitution. That is what is meant by the term, "Education is a State function."

Mr. Justice O'Brien, in the Gunnison case, frequently cited, said, referring to the city of New York: "The city cannot rent, build or buy a schoolhouse; it cannot employ or discharge a teacher and has no power to contract with teachers with respect to their compensation. There is no contract or official relation, express or implied, between the teachers and the city. All this results from the settled policy of the State from the early days to divorce the business of public education from all other municipal interests or business, and to take charge of it as a peculiar and separate function through agents of its own selection, and immediately subject and responsive to its own control. To this end it is enacted in the general laws of the State that all school trustees and boards of education shall be corporations with corporate powers, which of course includes the power to sue and be sued in all matters relating to the control and management of the schools."

I apprehend that the opposition, if there is opposition, to these measures comes from either one of two sources; first, from certain cities in which there is still a strong feeling, in official circles, at least, that municipal officers should control the school budget and the expenditures and thereby determine the appointment, tenure and the salaries of teachers, a power which if granted would be manifestly contrary to the settled policy of the State. It would also be contrary to the laws relating to the appropriation and application of school moneys in all the rural school districts in the State, in all its incorporated villages and in thirty-nine of the cities of the State. It has been well said that a board of education cannot give intelligent supervision to either the business or professional management of the schools if the amount of funds provided for their support and maintenance is to be determined by some other authority possessing no official relation or responsibility to the management of the schools.

Second, from those who foresee a possible limitation of the educational work of private and sectarian schools. Under the Compulsory Education Law the Department of Education now exercises limited supervision and control over such schools. Between certain ages all children must attend either the public schools or private or sectarian schools maintaining satisfactory standards, and to the extent of determining whether or not private and sectarian schools maintain proper standards, the Department of Education now exercises supervision and control. It is not sought by either of these amendments to increase that power.

Summing the whole matter up, that which is proposed by these amendments is to write into the Constitution what is now the settled policy of the State in matters pertaining to education — that public education is a subject under the control and supervision of the State and must be administered in every city of the

State through a board of education, created a body politic, which shall have power to determine the amount, and direct and control the expenditure of all school moneys. Subject to these limitations the Legislature will continue to have the same powers which it now possesses pertaining to administration and to the general control and administration of school affairs throughout the State.

As I have stated, the real purpose of these two amendments is to place in the Constitution the precise policy of the State now on the question of education, and I say that the time has come to settle the disputed question as to whether or not the Legislature can surrender to any political subdivision of the State powers which are contrary to that settled policy, and the very purpose of these amendments is to settle that question for all time, so that every child will have the same benefits of education, no matter in what part of the State these children may attend school.

I sincerely hope that both of these amendments, if not in the precise language that they are in here, that both of these amendments may be adopted. We have had experience here in the Legislature with the proposition advanced in the first amendment, and I feel strongly on the subject, that it should be written into the Constitution in unmistakable terms that education is a State function.

Mr. Bockes — Mr. Chairman, I am opposed to this proposal, upon the ground that it appears to me to increase the centralization of power in Albany which already is excessive under the statutory law which this proposal would seem to sort of recommend as a constitutional statement.

Now for ninety-six years it has been found adequate to have a provision in the Constitution providing for a fund, the proceeds of which should go inviolably for the support of the common schools, and the present language seems to me to be far-reaching and excellent in its scheme: "The Legislature shall provide for the maintenance and support of a system of free common schools wherein all the children of this State may be educated." Now it is proposed to make a constitutional enactment which as it appears to me would write into the Constitution the present imperfect statutory educational law. That law is very imperfect, and I know of no law in my section of the State that creates so much dissatisfaction as this very centralized educational law. We have in my county of Otsego farm after farm that has been reduced in value on account of its distance from schools since this present scheme of consolidation went into effect. The district has been compelled against the wishes of the majority of the taxpayers to send their children away from home, to be gone all day long, not to come back until night, and when this happens contrary to the wishes of a large majority of the taxpayers, it has

a tendency to make the people generally dissatisfied with the administration of government.

Now let me illustrate: In the town of Hartwick, Otsego county, in district No. 14, there are thirteen scholars. Every resident of that district to a man is anxious to maintain for that district and for the children of that district their own schoolhouse and their own teacher. Instead of that this centralizing power here steps in and says, "No, you must take your children over to the heart of the village, two and three miles away." The result is that these children do not have the benefit of walking on their little legs to school as Andrew S. Draper did when he was a boy in Otsego county, but are carted off to school and are away all through the noon hour learning the tricks of the village children and are taken away an hour or two more than they used to be and the farm values in that village are reduced at least 10 per cent. on account of the distance from school.

I had a letter just the other day which did not relate to this subject directly, but mentioned this evil as illustration, in which the author asked me to oppose any effort to reduce the powers of our local tax assessors and in his argument he says: "I am a firm believer in home rule for the country in educational matters. Our local needs and authorities are wholly absorbed by the powers of the centralized department." And he puts in some quotation marks around the word "department," inasmuch as he suggests the cuss words which the farmers apply to it when they speak of it orally, and often disregard it.

"Our roads are worked out on paper plans and schemes at Albany, by engineers who never saw the ground or know any local conditions. The business of our board of supervisors is dictated and controlled at the Capitol largely and becoming more so. I am citing these instances to show that the tendencies of these times seem to gravitate to a too-strongly centralized power. I believe the country people are competent to solve their own problems and manage their own business in ways which agree with our local needs and requirements. If not in so uniform a manner throughout the State, it will be done all the more in harmony with justice."

That is not a single letter. It is a sample of the ordinary conversation of the grangers and the farmers in my section of the State, and this Education Department is one of the chief offenders in interrupting the natural activity of the taxpayers in local affairs.

Now, if this proposal is a necessity for the sake of preventing New York city from walking away with some powers which properly belong to the State, I wish to be shown that reason, and I will be willing to vote for it, but when you undertake to make what

seems to me a direct attack upon the district schools, respected as they have been by the people in the country, it seems to me you are insulting the agricultural portion of the population.

There is another thing which offends me, although it is probably of no significance; striking out the word "this" and putting in the word "the," to my mind looked as if the Education Department were so earnest and eager to make some improvement that they felt as though they must do something just for the sake of doing something.

Now, what is the improvement in striking out the word "this" and putting in the word "the" in the last line?

The only effect of it is to emphasize the centralized power in the State. There is a personal appeal in the language and no one should change the mandate of those grand old words: "The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated."

Mr. Schurman — I want to say that the Education Department has no responsibility for this Proposed Amendment. I want to add with reference to the change from "this State" to "the State" that it was made by the Committee on Education because "the State" seemed to be the way in which the phrase occurred elsewhere in the Constitution.

The Chairman — Mr. Bockes, I dislike very much to interrupt you at this moment, but I, perforce, must do so. The chairman of the Cities Committee, of which I have the honor of being a member, has sent word to me several times that a meeting of the Cities Committee has been called for 10:15. It is now a quarter of 11. We have under consideration a very important provision of the work that we have been doing for months and he is desirous that I should be present, and I am desirous of being present myself, so, with the permission of the Convention, I will call some one to my place in the Chair, in order that the discussion will not be interrupted.

Will Judge Brenner take the Chair?

Mr. Brackett — Mr. Chairman, I move that the Committee temporarily rise for the purpose of the President of the Convention taking the seat and making the call. I think Your Honor has no authority to do that. It is a mere temporary matter of a moment that the President should take the Chair, and he can then call some one to the Chair.

The Chairman — You have heard the motion. All in favor of the motion will say Aye, contrary No. It is carried.

I am requested by the chairman of the Cities Committee to ask, if there are any members here, that they immediately repair to the Committee room.

(The President takes the Chair.)

The President — The Convention will resolve itself again into Committee of the Whole. Will Mr. Brenner take the Chair?

(Mr. Brenner takes the Chair.)

The Chairman — The Convention is again in Committee of the Whole. The Committee will proceed with the calendar.

Mr. Bockes — Mr. Chairman, I did not intend to criticize the statutory Education Law in its general scheme. That law was intended for a good purpose, and if you would leave it with the same freedom that it has now, to be modified and put into shape by experience and by legislative enactment, I think the present law, in spite of its inequities, will accomplish great good in the long run, because there are thousands of districts in the State of New York which need this very consolidation and want it. What I meant to say was that this constitutional proposal would seem to head off that freedom on the part of the Legislature in whipping the statutory law into shape.

Mr. E. N. Smith — I speak on this subject with a great deal of diffidence, because I hesitate to disagree with the expression of opinion made by the Committee on Education. My remarks will necessarily have to be brief, however, because my attendance is desired at the present moment at the meeting of the Cities Committee. It seems to me that the questions raised by these two proposals — and they must be read together, are questions which should be considered in the light of our full educational system, because it must be admitted that these two amendments, if adopted, will radically affect that system. My objections to this bill, General Order No. 22, are as to its form, its effect and the reasons offered for the proposal. What does education depend upon in this State? Upon constitutional enactment? From the history of the government down to 1894 there was no constitutional provision upon the subject of education in this State. Education in this country is an institution which rests upon grounds which are stronger than mere constitutional enactment. It is an institution which lies at the very base of our civilization, essential for the preservation of our life as a republic.

Now what is the reason — in the consideration of a question like this we must consider what is the reason for public education. Why is it possible for you to come over to me and say that I must contribute to the education of your children, or vice versa? What ground is there for the taking of your money for the education of my children? To what extent can we go? For what purpose can the money be taken in education? Now, it seems to me the answer is obvious, that to the extent that education is essential for the qualification of our people for the duties of citizenship, to the extent that education in that regard may be general among all children, to

that extent and for that purpose may the State tax its citizens for the education of all its children. It was evidently that view which prompted the provision adopted in the Constitution of 1894, which says, "The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated."

It is said that this proposal is but a declaration of the present law, a recognition in the Constitution of the law as it exists. I said that my objections were as to form, as to effect, and as to the reasons proposed for the proposal. The proposal is, "The State shall continue its supervision and control—" What is that supervision and control? What is the definition of it? Is it the supervision and control that is in the statutes to-day? If so, then there are 200 pages of Consolidated Laws which you are reading into the Constitution, for the educational system of the State is worked out through so many pages.

If that is the meaning, then certainly there are numerous provisions in the educational laws which ought to be subject at all times to change or modification according to the changing conditions of the times. In other words, "supervision and control," those terms are uncertain and indefinite expressions. The next sentence as to education, "supervision and control of the education of the children."

What education? The education we have been giving in common schools? The education we are giving in high schools? The education we are giving in colleges and universities?

There is no limitation. "Supervision and control of the education of children." Not the education of "all children," but of "children." So that it is not limited to that common spread of education over and throughout the whole State and for all the children of the State.

As to the effect of this legislation. If it incorporates the present law as a part of the supervision and control, no man who is acquainted with the educational system of the State wants any such provisions as are contained in the laws frozen into the Constitution from this time on, so that they cannot be changed.

If it means that the State shall interfere with the locality, and shall centralize all power in Albany over education, as to all forms of it, then certainly you are striking right at the foot of that important factor in education of local pride which every community has in it.

Now, the reasons that are urged for this — the anticipation of home rule for cities. Something is looming up, it would seem to appear, which might interfere with the State's control over all education due to the action of the Cities Committee. If that is

the reason, then I say we had better wait before we put any provision in the Constitution, or adopt it in this Committee, until after the Cities Committee has handed in its report.

If the effect of home rule ideas is to concentrate everything of State concern in Albany, or if it means the concentrating of control of education, of health, of charity — of all those things in which the State operates concurrently with the municipality, then, indeed, the effect of home rule would be, not home rule, but to destroy that home rule as to State affairs of local interest which we now possess.

I shall detain the Committee no longer, but in order to carry out the suggestions which I had in mind I would offer the following substitute:

Strike out the words in italics in General Order No. 22 down to the words "the Legislature" in No. 22, and after the word "educate" add the following: "The State shall take care that all the children thereof are educated according to the standard now or hereafter prescribed by it for such common schools or according to a substantial equivalent thereof and shall forever have the supervision and control over education deemed by it necessary to accomplish such a result."

I offer this and move its adoption and, if I am making the proper motion, I move that the motion lie upon the table until the matter comes up for final action before the Committee.

The effect of this amendment is to confine the jurisdiction to that supervision and control over those matters in education which are common to all the children of the State. This is a constitutional provision. It is not a limitation upon the powers of the State Department of Education as they now exist, but is supplementary to the present provision of the Constitution, to wit: "the Legislature shall provide for the maintenance and support of a system of free common schools wherein all the children of the State may be educated," and second: the new part, that the State shall take care that all the children of the State acquire such a common-school education.

Mr. Marshall — Mr. Chairman, this is a subject which necessarily interests all of us greatly, and it is very important that we shall therefore carefully consider the proposals that have been made, both by the Committee and by those who have sought to amend the proposition which is now occupying our attention.

I think that there is much misunderstanding and unnecessary misunderstanding as to the effect and meaning of some of the words which are employed in this section as proposed. Nobody is more anxious than I am that the right of the citizen to educate his children in such manner as he desires shall be protected. I

should, to the utmost of my power, protest against any attempt to prohibit the education of children in private schools or in parochial schools or any other proper institutions of learning, and I do not believe that those who have framed this provision have had any thought of depriving any citizen of that liberty. If such a purpose exists it must be found in the language employed, and I think that it would be scrutinized in vain to find within the four corners of this provision the slightest indication of a purpose hostile to the right of private education or education in parochial schools. The language is plain and simple. It is not intended to be revolutionary. It indicates the desire to be declaratory of a principle and not, as my friend from Watertown seems to think, freezing into the Constitution any particular method or manner of carrying out the powers or exercising the functions which are declared to constitute an existing duty on the part of the State.

“The State shall continue its supervision and control of the education of children as a State function.” The State now exercises the supervision and control of the education of the children of the State and it is a State function, and what is sought to be done here is to emphasize the idea that such supervision and control of the education of the children of the State is a State function, is a duty of the State, is an obligation on its part to the children of the State. Now the word “control” has given some concern to a number of the gentlemen who have discussed the subject but there can be no doubt as to its meaning. I examined the Century Dictionary last evening and I find that the word “control” is there described as being “The power of direction or guidance,” and here the supervision and guidance of the education of children is a State function. Certainly there must be some superior power or authority with respect to so important a subject. It is unthinkable that education shall be permitted or shall go on without a head, without direction, without guidance; that every community can deal with that all-important subject according to its own methods or its own ideas — grant education or prohibit education or neglect education — without some supervisory power over it and without the exercise of guidance over it by the superior power of the State. A State function is a State obligation, a State duty, a State right. In the same way we have other State functions which must not be surrendered by the State and which must be observed by the State: The maintenance of the police power is a State function. We would not consider it at all practical or advisable or right or just that the city of New York should exercise one kind of police power and the city of Buffalo another, and have one rule of criminal law and one rule

of criminal procedure in one part of the State and an entirely different one in another part of the State. And so the protection of public health is a State function. The administration of justice is a State function. The care of dependents and defectives is a State function, and that must reside in the State as a State function. But although these functions are vested in the State in carrying them out, in exercising them, it is necessary that the State shall act as the agency. That has been very clearly pointed out by Mr. Blauvelt in his admirable speech this morning.

These localities — the local divisions of the State, the civil divisions of the State may be the arms of the State, the hands of the State, for the purpose of carrying out and exercising that function. But what we are now considering is not the particular method or manner of exercising the function, but the idea of imposing upon the State and of declaring in this Constitution that it is a State function, to say now that there shall be supervision and control by the State of the education of the children of the State.

Now it is proposed by Senator Saxe to amend this provision, which I have just read, by inserting after the word "its" the word "present," so that the clause will read, "The State shall continue its present supervision and control of the education of children as a State function."

I should consider that amendment as most unfortunate. I would consider that as depriving the provision of all elasticity, of accomplishing what Mr. Smith of Watertown so much deplored in his address a few moments ago, the fact that you would write into the Constitution the 200 laws, or pages of law, relating to the subject of education.

What may be desirable to-day as a method of supervision and control may not be desirable to-morrow. It is not a particular method of supervision or control that is desired. It is simply the idea of a general supervision and control that is important.

Mr. J. G. Saxe — Do you want to be understood as disagreeing with the members of the Committee who have spoken and who object to the word "present" simply on the ground of tautology?

Mr. Marshall — I think that it is tautological, because you use it in connection with the word "continue;" but I think the greatest objection to the word "present" is that you are defining what that supervision and control is, or attempting to define what kind of supervision and control there shall be. It is the present supervision and control, which means not the past or the future supervision and control. That is where the danger lurks in the Constitution.

Mr. J. G. Saxe — This is important, inasmuch as it applies to my amendment. The objection has been made that it is tautological, and now I want to know if you agree with me, and not with the Committee.

Mr. Marshall — There is something more important than tautology, or lack of tautology, and there is danger in putting in words which are apt to have residing in them the potentiality of mischief, and I think, therefore, if you use the words, or say, "the present supervision and control," you are placing a rigid term in the Constitution which would do the very thing that you of all men, I think, are seeking to prevent.

Mr. Tuck — Do I understand, then, that the control may be increased, if it is not fixed?

Mr. Marshall — There can be no increase of control, speaking accurately. The control is a condition. Supervision and control are two thoughts, two acts. You speak of the power of direction or of guidance, and it is well to leave it in that form.

When you begin to modify — to qualify — then you begin to give too precise a definition to the power, and in that way are making an error. For instance, if we said, "The control exercised by the State with regard to education, as exercised on January 1, 1915," you are saying that it shall be just that kind of control, that method of the exercise of control which was practiced on that day; whereas, if you say, "the control" it does not bind you to any particular method of control, but enables you to exercise that control by other methods, more modern, or more sane, or more effective than those that were practiced on the 1st of January, 1915.

Mr. Tuck — So that, concretely, if at the present time control as to education means merely determining by result, by examination, say, could that be modified in determining how instruction should be carried on in the schools by means of any kind?

Mr. Marshall — Let me explain my ideas perhaps more at length than by a categorical answer to the question. A supervision and control of the schools as a State function necessarily includes the power of fixing certain requirements in the schools.

Suppose to-day in the exercise of the function of education, by law you say that it is sufficient to teach the three R's in the schools, and nothing more is required. That, to-day, would be the method of exercising the power of control over the public schools, and the supervision of the schools, and would be one method of exercising the State function.

But suppose to-morrow it is decided that in addition to the three R's it would be necessary to teach some other subject, to teach the

subject of hygiene, teach the subject of more detailed study of geography, to teach civics; that would be within the power of the State under this general provision.

So, also, it might be to-day said that in our schools you might teach in any language that you please; but suppose it should be decided to be for the best interests of the State that some education in English, in the English language, should be required in the public schools; that power would reside in the State in connection with this right of supervision and control.

It is only in that respect that there may be changes. But that power of supervision and control of education must necessarily reside in the State, as affecting all children of the State. It is not important that that instruction shall be given in one school or in another but that in some school there shall be some compliance with the State requirements as to what shall constitute a proper education of the children of the State.

Now I heard a number of years ago — I happened to be chairman of the Commission on Immigration in this State — and I discovered that there were certain schools which were conducted by people who came from foreign countries and in which there was not one word of English taught, and in which the children grew up without any knowledge of English even though they were children born in this country. It was also found that there were certain schools in which hygienic conditions were atrocious and where the lives of the children were being threatened. Now certainly it is within the power of the State and it is within the duty of the State in the exercise of its functions to see to it, at any rate, that certain fundamental requirements of education should be complied with in all schools, as, for instance, that instruction shall be in part at least in the English language or that there shall be certain subjects which shall be taught in the schools or that the schools shall be conducted under proper hygienic conditions. That is the only limitation — that is the essential part of this provision and in that sense I should say that it would be most unfortunate to put the word “present” into the Constitution.

Now it is also important to have this function reside in the State in order to make it possible to have proper standardization, in order to carry out the policy of the State that there shall be compulsory attendance of the children in the schools. That is a State duty and a State function which cannot be properly carried out unless there is some supervisory power and control in the State which shall make it possible to carry out the policy of compulsory education. Undoubtedly in carrying out that purpose, in carrying out that policy, the local authorities must be called upon to assist. Nobody for a moment believes it conceivable that we shall do away

with our local school boards, with our boards of trustees, or whatever bodies there may be that carry out the general policy of the State in conjunction with its supervision and control.

Now, the next proposition that has received criticism has been the clause following the one which I have just read, which is to be found in the words "and no power in derogation thereof"—that is in derogation of the State function, the function exercised by the State—"no powers in derogation thereof shall be conferred upon the local authorities of any civil division thereof." The word "derogation" has been made the subject of some criticism. Now what is the meaning of the word "derogation?" It is defined to be "A limitation as to extent or restraint as to operation; the act of impairing the effect of any right or power in whole or in part." Now, that being thus defined, I certainly see nothing to criticize in that phrase. The fundamental proposition is that the State shall continue its supervision and control of the education of the children as a State function, and then comes this further emphatic declaration as a categorical negative, "and no powers in derogation thereof shall be conferred upon the local authorities of any civil division thereof." That is, the superiority of the State, its power of direction and guidance, shall not be cut down, shall not be whittled away, shall not be made to disappear, shall not be surrendered in consequence of any powers that may be conferred upon any local authorities of any civil division of the State. In other words, the State in matters of education is supreme in the exercise of its functions. The local bodies are agencies of the State, subordinate to the State. There shall be no grant of power to them which will in any way militate against the exercise of that superiority of power and authority of direction and guidance which is lodged in the State.

That is made very clear in the accompanying measure which has been proposed by the Committee and which is also upon our calendar to-day, and which might as well be disposed of to-day as at any other time, which recognizes the right of the Legislature to create boards of education and to bestow upon them certain powers in connection with our school system. That has been read several times but it is useful in this connection to read it again. "Every city shall have a board of education. It shall be a body politic and corporate. It shall, subject to general laws, determine the amount and direct and control the expenditure of all funds to be used for public education within its jurisdiction. Such funds as are raised by local taxation shall be raised in the same manner as the general city taxes, but shall be levied and the amounts extended on the roll as a separate school tax." That clearly indicates the idea that there shall be exercised by the locality these powers, subject to the sovereign power of the State. The State is the head. The localities

are the arms. They are the methods by which the State exercises its functions, but the State at all times is there to guide and direct.

Now, Mr. E. N. Smith's proposed substitute, which he has just read, which I have had no chance to very carefully scan, does not seem to me at all desirable, or in any way an improvement upon the provision which has been reported. "The State shall take care"—he first repeats the clause in the present Constitution which was added in 1894, and which, by the way, is a guide to the purpose and intention of the framers of this provision. "The Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated." That, read in connection with what goes before, is a mere indication that the State not only exercises this function of education, but insists upon the Legislature making provisions in free public schools, common schools, for the education of the children of the State, so that if the parents do not choose to educate their own children at home or in private schools or in parochial schools or by some other method, the State must exercise that function by providing the free schools at its own cost, at its own expense, at which any of the children of the State may attend.

Mr. Quigg — Does not the language in the last line forbid the thought that there is any interference with private education as the parents of a child may desire where it says that "The Legislature shall provide a system of free common schools, wherein all the children of this State may be educated?"

Mr. Marshall — Not "shall" but "may" educate. I am entirely in accord with what Mr. Quigg says.

Mr. Griffin — Is it not a fact that Print No. 757, General Order No. 34, to which you have just referred as a companion bill, and which might be disposed of to-day, is a proposal that relates wholly and solely to the financial administration of the schools?

Mr. Marshall — In part it is, but it begins with the provision that "Every city shall have a board of education. It shall be a body politic and corporate. It shall, subject to general laws, determine the amount and direct and control the expenditure of all funds to be used for public education within its jurisdiction." That indicates, of course, a recognition by the framers of this provision that the localities are not to be deprived of the exercise of some powers in connection with the subject of education, the only qualification being that of the superiority of authority on the part of the State.

Mr. Griffin — But does not the subsequent provision of this section clearly indicate the purport and extent of the entire amendment, namely, the financial administration of educational matters?

Mr. Marshall — It does not act as a limitation in any way. Its general purpose is to create a method whereby funds may be collected in the various localities for carrying out the general educational purpose of the State as defined in the clause which we are now considering and as carried out by means of the agencies provided in the different localities. Boards of education are well defined in meaning — that phrase is. Every city has a board of education, every village has a board of education or its equivalent, and even in the smaller communities there is that which stands for a board of education.

Mr. Reeves — I would like to ask this question more by way of emphasis than because I doubt the answer because I think I will agree with Mr. Marshall in the answer, but can you find, Mr. Marshall, in either of these Proposed Amendments offered by the Committee on Education anything that will restrict or limit the private or parochial schools any more than they are limited or restricted at the present time?

Mr. Marshall — Not a word.

Mr. Reeves — Neither can I and I wanted to emphasize it.

Mr. Marshall — I am very much obliged to you for having made that suggestion because it is absolutely a conclusive answer to any fear that any body may entertain on that subject, and I may say that I read this provision with great care for the very purpose of discovering, if possible, looking within its language, anything which might affect private or parochial schools, because if there is one thing that I am most insistent upon it is that there shall be nothing done that shall in the slightest degree deprive a citizen of his absolute independence not only in matters of education, speaking generally, but more important than all, in matters of religious belief.

Now Mr. E. N. Smith's proposal is, that "The State shall take care that all the children thereof are educated according to the standard now or hereafter prescribed by it for such common schools, or according to a substantial equivalent thereof, and shall forever have the supervision and control over education deemed by it necessary to accomplish such results." Now I should consider that language as, to use a very picturesque phrase of Mr. Smith, "freezing" into the Constitution that which we now have. He is accomplishing the very thing which he does not want to accomplish, and which nobody ought to desire to accomplish, in this Constitution, and then he finally closes by saying "and shall forever have the supervision and control over education deemed by it necessary to accomplish such result." It not only gives that power of supervision and control now, but forever makes it dependent upon the unfettered discretion of the State. "Supervision and control over education deemed by it necessary to accomplish such result"

— that language is infinitely more all-embracing and grants much greater and more unlimited powers than is suggested in this provision which has been recommended by the Committee.

Now I have thus far spoken in defense of this provision, as it is framed, which I think is entirely satisfactory. It recognizes the great general principles which we should not lose sight of, it recognizes the State function as a superior function. It is a duty of the State which it must — to the performance of which it must give heed. It must not permit schools to be starved. It must see to it that there is a proper system of education, but, as I have already said several times, this does not prevent the granting of power to local authorities, which are in aid, development and effectuation of this greater power, this supervisory power of the State. Now I confess, however, that although this language, in my judgment, is entirely satisfactory, protects every possible interest, is free from all just criticism; it is perhaps more wordy, uses more words to express the idea, than is necessary. I think it is not an improvement, so far as phraseology is concerned, upon the language which President Schurman proposed when he offered as an amendment to the Constitution Print No. 525 which was phrased as follows, in simple, direct language, which is elastic and at the same time free from any possibility of misunderstanding: "The supervision and control of the education of the children of this State shall remain the duty and function of the State and shall never be surrendered," is vigorous, terse language. It means all that this present language does. It has more of the ring of the old-fashioned Constitution which we admire. The language is language which can sink into our souls easier than this more modern phraseology which has been adopted. I am entirely satisfied with either. If I had my own preference to guide me, I should unhesitatingly adopt the language President Schurman originally introduced, and which in my judgment cannot be improved upon.

Mr. Griffin — Mr. Chairman, I want to make a confession of faith. First of all, I believe in the supremacy of the State in matters of education. I believe in the public school. I am a graduate of the public schools of the city of New York, and I would not want to see them restrained or restricted in any manner whatsoever, and I want to say to the gentlemen who are behind this proposal that if they can do anything to make the control of the State greater, I am going to vote with them, but I am going to vote against them upon this proposition, because I think this proposition is inherently dangerous and contains in itself, as Mr. Marshall well said, the elements of danger which will prove a pitfall in the future and lead to endless adjudication by the courts.

I agree with Mr. Blauvelt when he says that whenever a policy of the State becomes fixed and settled, there is no objection to crystallizing it into the Constitution. I agree with him absolutely. I agree further with him in the proposition that there is no objection to putting into the Constitution the precise policy of the State. There you stop. I agree with you absolutely, when a policy is settled, it may be crystallized into the Constitution. But when you are about it, I insist, and I think the people of New York will insist, that you be precise about it and state just what you mean, leaving nothing to inference and leaving no pitfall or loophole for further adjudication. Is this language precise in this amendment? With all due respect to the constitutional authority who, if not fathers, at least supports this proposal, I beg to say it offends against the very simplest and most fundamental principles of English rhetoric.

"The State shall continue its supervision and control of the education of children as a State function."

I believe in that; but the trouble about putting a clause of that kind in the Constitution is this: That it opens the door immediately to inquiry as to what are the limitations. What is the extent of these functions vested in the State? It opens the door, and when we look in, what do we find? Hundreds of statutes, hundreds of court adjudications. Is that good craftsmanship, to put into your Constitution general language, not specific and not stating just what the control is that you desire to vest in the State?

I object also to the succeeding clause, and I respectfully direct your attention to this language: "And no powers in derogation thereof shall be conferred upon the local authorities or any civil division thereof."

"In derogation." What does "derogation" mean? Mr. Marshall has said, "In restraint." Is it a limitation? Whom do you propose to limit? The air? No. You have something back in your minds, even though you do not express it, and we all know what the limitation is.

The limitation is upon the Legislature. There is the danger of this language. Here is the pitfall that is going to entangle the feet of progress. Here is the language that is going to be the source of endless pangs and confusion.

Why limit the power of the Legislature? The Legislature has had the right in the past to act upon all of these matters. Why curb the Legislature? Because there are gentleman, Mr. Chairman, so constituted that they believe that the Legislature as a representative body ought to be stripped completely of all powers, and they are anxious to see vested in a limited board, a Commissioner of Education, all control over education.

Mr. Byrne — Unless such a part of this clause was in, “no power in derogation thereof,” would it not defeat the very purpose, namely, that “the State shall continue its supervision and control,” if the Legislature were then permitted to pass laws “in derogation” of that first statement?

Mr. Griffin — It certainly would.

Mr. Byrne — Then is not it absolutely necessary, if you are to have the first part, that “the State shall continue its supervision and control,” that then the Legislature shall be restrained from passing any law “in derogation” thereof?

Mr. Griffin — No, because I believe that the Legislature is a part of the State. What is the State? It does not consist of the Governor and State officers. It does not consist of the judicial department. It does not consist of the Legislature. But, it consists of all working together, co-ordinated and harmonized, and when we speak of the State, we speak of all the State, with all its functions so co-ordinating.

What is the necessity for this proposal? To crystallize a fixed policy of the State. As I said, I agree with that perfectly and absolutely. But that is no excuse to inject into the Constitution something which is not as specific as the hundreds of court decisions and of statutes that are already in existence and to which reference is necessarily made.

Mr. Blauvelt, in speaking of the necessity for this bill, says that should the board of education fail to keep up the schools according to the standard of the State Department of Education, that the board of estimate and apportionment of the city of New York might fail to make an appropriation for schools, that it was to guard against this danger of the city of New York being recreant to its own trust, the city of New York forgetting the duties and obligations which it owes to the children of the city of New York.

Has any one here ever heard of the city of New York being behind hand in matters of education? Is it not a fact that New York city spends its own money, raised by taxation upon its own citizens, for the support of its public schools, for the support of its high schools and its colleges? We don’t come to the Legislature, year after year, for appropriations of large amounts for the maintenance of normal schools and State schools. Our children don’t go to them. They go to the public schools of the city of New York, and they go to our colleges in the city of New York, and if they go outside of the city of New York, they pay their way.

A ridiculous, unthinkable hypothesis is the only excuse that I have heard here, amid the flood of oratory on behalf of this amendment. What is the real reason? We may as well be frank. What have you got in the back of your heads with regard to this matter

of State regulation of education? And remember, I am with you on that proposition. I will go as far as any man here for State regulation of education.

I have got on my desk here a circular letter emanating from the Guardians of Liberty. You know the kind of guardians of liberty they are. It is dated July 31, 1915. It is addressed: "Dear Sir: The Hudson Court, No. Eighty-one, Guardians of Liberty, in meeting assembled, have approved the following four amendments, the first of which has been introduced at the Constitutional Convention, by the Hon. James L. Nixon of Buffalo."

I will omit the first three, as they are not relevant to this discussion, but I draw particular attention to the fourth, reading as follows:

"Placing all education under the direction of State educational officers and maintaining a uniform, standard course for all."

That shows what they think about it. Now, how does this idea disseminate from the halls of this Convention and get out at large among the people, that this proposal has something behind it which is not expressed in its phraseology?

Mr. Schurman — I should like to make on behalf of the Committee an explanation. There were different formulas carefully considered by the Committee. The Committee consists of representatives of public schools, private schools, parochial schools. All those interests were duly considered by the Committee, and that Committee thus constituted unanimously agreed on this amendment.

Mr. Griffin — I think, Mr. Chairman, that is more in the nature of an answer and as part of the remarks of the delegate than as a question. I don't see that I am called upon to answer that. I am very sorry if the Committee on Education are unanimously in agreement upon language which is so clearly ambiguous that it has needed two days of discussion to elucidate it, and it is not elucidated yet. It does not matter what the chairman on Education had in his mind. I have the greatest respect and admiration for him personally, but we are getting down now to the framework of our government, the organic law, and I insist and you insist that the language of that instrument should be pure and chaste and clear. That is all that I think we are called upon to do. There is the Guardians of Liberty with their circular, putting down their conception of what this proposal means. Now, let us assume for a moment that they are right in their assumption of what this proposal means, and in what they say. Don't you see, gentlemen, what it would mean? It would mean that the State Department of Education would have the right to go into your own home village and home town and tell the local board there the school-books that the children would have to employ. It would arrogate

to itself the right to dictate to every subdivision in the State the mode of education, the curriculum, the school-books and the text-books. Do you want to put yourselves on record in behalf of a proposition of that kind? Are you willing to give up your liberty with regard to education and give your assent to a proposition so ambiguous, so misleading as this? If so, go ahead.

Mr. Kirby — The letter or circular that has been read into the Record by the distinguished gentleman from New York, I do not understand its application, nor do I see that it should be considered by a member of this Convention in determining what he shall do upon a proposition which is now before it for its consideration. I have no speech or address to deliver upon this matter, but the injecting of the question by the reading of that circular here is repellant to my feelings as an American citizen, and I believe that it is the confidence of every member of this body that the distinguished chairman of the Committee on Education and the sponsor for this amendment stands before the people of this State and of this nation as one of its great educators, possessing the broadest outline, and under no circumstances would he father any measure which embodied the principles referred to by the organization which has issued the circular which has been read into the Record.

I do not understand what all this fuss is about relative to this measure. It is plain. It is simple. We find here a proposition which simply reads into the organic law of this State that which is now the law and that which every true American citizen, who believes in a State system of education, believes should continue in the law, and every American citizen who believes in that principle believes it should be in the language of this amendment, "continued as a State function and no power in derogation thereof shall be conferred upon any local authority or civil division thereof." Plain and simple — and why this atmosphere of doubt and fear and apprehension about this measure? What is its purpose, and why? It is clear, it is simple, and most of the delegates of this Convention by this time must have made up their minds as to the respective merits of this or the other proposition before this body for consideration, and I submit that this discussion should be brought to an end and that we should vote upon this proposition, if it is possible.

As I understand it, the rights of the various municipalities in this State, as far as the management and control of their schools, in the sense that they are now constituted, is concerned, is not altered in any manner. We are continuing the present policy. Boards of education in the various villages and cities of the State are in no wise affected by the proposition now before the body for its consideration. If I am wrong in this statement I beg to be corrected by the distinguished chairman of the Committee.

I submit, Mr. Chairman, it is time that we voted upon this proposition, that we stopped talking about it; this atmosphere of apprehension, of fear, of some mystery about what is going to happen in the future, or that we are laying a great power over the schools of the State which may be exercised in a manner to create a baneful influence. I hope the amendment will prevail.

Mr. Wickersham — Mr. Chairman, I move to substitute for the language in italics in the measure under consideration, No. 749, lines 3 to 6, the language employed in Proposal 525, introduced by Mr. Schurman, which Mr. Marshall read, and which I will read again as follows: No. 525 —“ Supervision and control of the education of the children of this State shall remain the duty and function of the State and shall never be surrendered.”

Mr. Chairman, I quite agree with Mr. Marshall that the language of this amendment has the constitutional ring which appeals to students of the old Constitutions. It leaves nothing to debate arising out of even apparent ambiguities. It declares a principle which it seems to me every citizen of this State must subscribe to. I understand, Mr. Chairman, that the Committee intended to translate the same thought into somewhat different language in the proposal which was reported, and which is before the Committee. But, Mr. Chairman, it seems to me their translation was not a happy one, and, with all deference to the able men composing that Committee, I do think that the language employed in the original proposal more accurately expresses the idea which lies at the bottom of this measure than does the substitute which was reported out. The phraseology, a thing shall be continued as at present, is not altogether a happy one. It is employed in other provisions of the Constitution, with regard to the continuance of courts or other tribunals, but I think the better term is the word “ remain ”— the power shall remain with the State and it shall be its duty and its function to exercise that power as the exigencies of the present time may require. It seems to me that this language ought to appeal to all those who have assented to the change and that it should reconcile the differences of those who, while avowing their adherence to the principle, have taken exception at the expression, and for that reason I have made the motion to amend.

Mr. A. E. Smith — Before the vote is taken on the proposed substitution which is in the nature of an amendment, to No. 749, I want to address myself to one of the several proposed amendments: The one that proposes to make the language read, “ The State shall continue its present supervision and control of the education of children.”

That would be exceedingly dangerous for the city of New York, because when that fraternal spirit that the Senator from Saratoga speaks about ripens into its full bloom, New York may get

its just share of the money appropriated for educational purposes. How we fare at the present time might be interesting.

The Constitution has read for twenty years, "The Legislature shall provide for the maintenance and support of a system of free common schools wherein all the children," and so on. Wait until I read to you how this has been done. From the report of the State Education Department for the year 1913, the apportionment of the State money made pursuant to appropriations of the Legislature of 1912, on pages 620 and 624, we find that in the great State of New York there are, between the ages of five and eighteen, 1,492,912 children attending the public schools. In Greater New York, 766,100 children, so that in Greater New York there is just about 40,000 more children attending the public schools between the ages I mentioned than there are in all the rest of the State. But this is the way the money is given out: For vocational schools, appropriated for the whole State, \$26,686,000. New York city got \$10,000 of it.

Mr. Parsons — For vocational schools?

Mr. A. E. Smith — For vocational schools.

For teachers there was appropriated for the whole State, \$4,947,778.84. New York city got of that, \$1,811,525.

A Delegate — About one-half.

Mr. A. E. Smith — Pretty nearly one-half? Oh, no; \$1,800,000 out of \$4,000,000 — wait until we get the rest of the figures together and we will find it is just about one-third. For superintendence there was appropriated \$72,800. New York got \$800 of that. The total, \$5,047,265 for the whole State; for New York city, \$1,822,925.

Mr. Marshall — I think you must have misunderstood your original figures. What are the figures for vocational schools?

Mr. A. E. Smith — Twenty-six thousand dollars, and New York city got \$10,000 of that.

Mr. Marshall — Well, you said \$26,000,000.

Mr. A. E. Smith — Did I? That is a habit of mine, to talk in large figures.

Mr. Blauvelt — Was this appropriation made by statute, or would you have it inferred that the Department of Education arbitrarily discriminated against the city of New York?

Mr. A. E. Smith — No, I believe it was pursuant to statute. I believe the law requires a certain quota to be given on the basis of the number of teachers. But this is the way it works out. It does not make any difference how it is ordered; this is the result.

Mr. Blauvelt — Is it not a fact that the city of New York might, if it saw fit, employ a sufficient number of teachers on its staff that would give it its quota in proportion to what the rest of the State gets?

Mr. A. E. Smith — The answer to that is that every teacher that is added to the working force of New York naturally will require a larger appropriation by the Legislature, but this proportion between them will never disappear.

Mr. Blauvelt — Is not that the fault of the city of New York?

Mr. A. E. Smith — No. Absolutely no. Absolutely no. If the gentleman will wait until I finish this statement — the difference in the teachers is only a small part of this thing. Wait until I give you the total and show you what the State is giving upstate to 726,000 children, and what it gives to the city of New York, with over 40,000 children more. Now, the gentleman from Rockland knows very well the reason; he knows the reason just as well as I do. The upstate communities do not contribute as much as we do. They get their supervision for nothing. We pay for ours. We maintain our normal schools and we pay 75 per cent. of the cost of theirs. You know this is a kind of winding-up affair. The further you go into it, you find we are tied up into this whole thing. We are paying about twice for everything. Now, salaries of superintendents.

This is pursuant to statute — \$186,183.87. Every dollar of that is spent outside Greater New York. We maintain our large force of superintendents entirely at our own expense. This is for upstate.

Now, the traveling expenses of these superintendents was \$39,199. Now, the expense for normal schools, of which the city of New York receives nothing, was \$701,507. The total expense for district superintendents of normal schools, of which New York receives not one penny, was \$922,890. Now, add that to the difference between the teachers' salaries, and New York is getting the worst of it. The worst of it, that is the way to put it, by actually \$4,147,230, with 40,000 more children to educate.

Mr. Blauvelt — Would not the adoption of these two amendments be in the interest then of the city of New York?

Mr. A. E. Smith — They would, with the word "present" — if you get me, I am against the "present supervision and control," because I agree with Mr. Marshall, if you put the word "present" in there, we will never be able to repeal the law which provides for the superintendence and that gives them their traveling expenses and we will never be able to saddle upon the whole State, where it ought to be, the cost of the normal schools or put it on the counties where the normal schools are.

Mr. Wickersham — Would not the substitute which I moved a moment ago avoid the very objections to which the gentleman has referred?

Mr. A. E. Smith — Yes, No. 749, if not amended, will be all right. The difference between 525 and 749, as I see it, is just in what you just said, and in what Mr. Marshall said, that it is a little more,— that it has got a little more punch in it (laughter), so to say. It sounds a little better. There are not so many words that you can play upon. You get rid of our friend “derogation,” probably, and several more like it.

Mr. Wagner — Perhaps surrender would be better.

Mr. A. E. Smith — Well, “surrender” sounds better, for we all know what that means.

So far as that is concerned, I think 525 is all right, but the point I make is that whatever the Convention finally adopts, it must avoid anything in language, or that could be spelled out of the language which would continue the condition which gives New York so much the worst of it, with all due respect to the fraternal spirit.

Mr. Brackett — I am so weary, I am getting wearier every minute. If I should ever reach within seeing distance of the “Pearly Gates,” within whose enfolding arms, for the peace of which I hope we all hope and pray, I expect as I am making my plea to St. Peter to permit me to come in to hear wheezing up the hill behind me the gentleman from New York with his complaint that there are more Republicans getting in than there are Democrats; and I am very sure that he will find that the reason for it is that there is some inequity somewhere in the Constitution, or in statute, that girds around and binds and trusses too tight the city of New York in its relation to the great Empire State.

Now, Mr. Chairman, it has been with the greatest difficulty that I have restrained myself from hitting my brother Smith on the wrist politically.

I am trying to bear deference to the President of the Convention; I am trying to follow our leader, the gentleman from New York, when they say that there must not be any injection of politics into this Convention under any circumstances; but when every time any possible question comes up, and it doesn't make any difference what, the gentleman from New York has to rise and to present to the consideration of the Convention the sore toe of the city of New York, it comes with the greatest difficulty that I can follow my leaders as indicated.

I suspect, Mr. Chairman, if there should be a nostrum introduced in this Convention for the cure of hard and soft corns, that the gentleman from New York, Mr. Smith, would at once be on his feet insisting that the Legislature of the State of New York, dominated by the countryman, had imposed upon the city of New York the largest and juiciest selection of hard and soft

corns New York ever had, and that New York must have more than half of the remedy.

Now, with all due respect to the gentleman, from New York and his views on many questions, I wish to say that I thought that education was away beyond any possibility of the injection of politics of any kind. I did not believe it was possible for even the politically tortuous mind of the gentleman from New York, Mr. Smith, to be able to inject into this question the woes and the troubles of the city of New York.

Mr. A. E. Smith — I simply wanted to show the gentleman, how far this question of discrimination against New York has been carried, even under the Education Law.

Mr. Brackett — I know Mr. Chairman, and do you know that, as I reflect on it, the tears as large as walnuts are running down my cheeks, when I think how poor New York has been kept and made by the Legislature of the State of New York.

Why, Mr. Chairman, if it had not been for the countrymen who are members of the Legislature of the State, I suppose that New York city would have been infinitely richer than now, because the poor countrymen have been having a few dollars more than an exact mathematical proportion, wherewith to send their children through the snowdrifts for miles so they can have their education.

Now, the gentleman from New York must get it out of his system that there is anybody trying to do anything wrong to the city of New York, and he wants to get it into his system, and he must get it into his system, that the fraternal spirit still exists, and instead of whimperings and instead of faultfinding, instead of all the methods which he adopts to inject his New York and his Democratic politics into this Convention, hating his sin, we still love the sinner, and are going to continue the fraternal spirit in about the same old way.

Mr. C. A. Webber — As one interested in the parochial schools, I take objection to the substitution that is now proposed. The Committee, after many days of wrangling over this very proposition, and in order to conciliate the different interests that found fault with the substitute that is now proposed, as having some possible tendency to invite interference with the parochial schools, agreed upon the amendment as proposed in general orders, and I think at this late hour it is a most undesirable thing to make a change in that amendment. It cannot and will not be satisfactory. We have had a large number of delegates to this Convention discuss the original amendment offered in general orders and every one of them has stated, and it is a matter of

record, that there is absolutely no intention on the part of this Convention to interfere by this amendment with private schools.

We are thoroughly satisfied with that, because we understand the rule of constitutional construction to be, that the courts may look to the Records of this Convention to find out what we mean; and we have fully felt that the courts are going to take our meaning and our declarations rather than those of any body outside of the Convention, whoever they may be; and having gone on record unanimously that there is no intention to interfere with private schools by this amendment, and having discussed up to this moment the proposition as worded in the amendment presented in general orders, I do not think now that we ought to make any change, or that we ought to go back to the language that excites a suspicion upon our part, because of the change in language. And to do that now might be an indication, and might give room for argument, that this Convention intended to go back to the original proposition and open up the possibility of interference with private schools.

Mr. Mereness — I move that the Committee rise and report favorably to the Convention upon Mr. Wickersham's substitute for the proposition reported by the Committee on Education.

Mr. Wickersham — I presume the first motion is upon the substitute before the motion to rise is in order, and if all those delegates who desire to speak on it have finished I shall call for a vote on my substitute.

Mr. D. Nicoll — Mr. Chairman, will you tell me what has become of Mr. E. N. Smith's substitute?

Mr. Wickersham — It was an amendment, not a substitute. This, Mr. Nicoll, is a proposed substitute which, of course, takes precedence over the various amendments to the original proposal which were moved the last time we were here and the question should properly, Mr. Chairman, be on my substitute.

The Chairman — The question will be on the motion of Mr. Wickersham to substitute —

Mr. J. G. Saxe — Mr. Chairman, before that motion is put, I want to simplify the issue by saying that I understand that after I offered my Proposed Amendment the Committee on Education met again and thought they meant exactly the same thing and preferred their own amendment. In view of that action by the Committee, and what has been said by Mr. Marshall and Mr. A. E. Smith, I withdraw my proposed amendment.

The Chairman — Which one was that?

Mr. J. G. Saxe — Those are the first amendments which were moved and the only ones which are printed on the General Orders calendar, and they are withdrawn.

The Chairman — One moment until I get the situation. There was a motion made by Mr. E. N. Smith to substitute that has not been acted upon before Mr. Wickersham's motion was made. Is that urged or withdrawn, Mr. Smith?

Mr. Westwood — Mr. Smith is not here. He is out in the Committee room.

Mr. Deyo — Mr. Chairman, by Mr. Smith's own motion, that amendment was laid on the table.

Mr. Griffin — Mr. Chairman, a point of order. The amendment of Mr. Smith was offered to General Order No. 34.

Mr. Wickersham — Mr. Chairman, I rise to a point of order. The motion is not upon the amendment; the motion is upon the substitute, which, of course, precedes discussion upon amendments. If the substitute is not adopted then the question will recur upon the amendments. I call for a vote upon the substitute.

The Chairman — The question will be on the substitute offered by Mr. Wickersham —

Mr. Griffin — Mr. Chairman, I ask that the substitute offered by Mr. Wickersham be read.

The Secretary — By Mr. Wickersham: Strike out the italicized matter in lines 3, 4, 5 and 6 and insert: Section 1. "The supervision and control of the education of the children of this State shall remain the duty and function of the State and shall never be surrendered."

Mr. D. Nicoll — I have listened with very great attention to this debate, and now as we are about to vote I find myself somewhat perplexed as to what course we ought to take. I understand that the proposed substitute of the gentleman from New York is suggested in place of the one reported by the Committee on Education, and it is urged for adoption because it is suggested that this language is more perfect than that reported by the Committee. But, whether you consider this proposed substitute, or that suggested by the Committee, the question arises, why do we put this in the Constitution at all. There is no use of amending the Constitution unless there is some very valid reason for it. My idea is that it is the business of this Convention in revising the Constitution to cut out those things in it which the committees find to be objectionable and to put in it those things which meet existing abuses. Is there any abuse or evil here that we are about to redress by the adoption of this amendment? If so, what is it? I understand the distinguished chairman of the Committee to say in his opening address that this amendment merely constitutionalizes the *status quo* and so does the substitute proposed by the gentleman from New York except that its language is more eloquent and impressive. So the question before the Committee now is, are

we to constitutionalize the *status quo*? Is that the business of the Convention? If so, every committee can find some *status quo* to constitutionalize. That practically means that the committee looking over the whole subject, not finding anything in the Constitution very objectionable and finding no evils to be redressed, says, "Well, we have got to do something to justify our existence and the length of our sessions and therefore we will constitutionalize the *status quo*." Well, I am bound to say that that does not impress me as any reason why a body of grave and reverend seniors like ourselves should undertake to amend the Constitution in this respect.

Mr. Deyo — I was personally in doubt as to what my vote should be upon this proposition. I was in the same frame of mind as Mr. Delegate Nicoll, until I had heard the argument of Delegate A. E. Smith, upon the proposition before us, and if there is any logic in the argument of Delegate Smith, then there is a reason why this Convention should, so far as it is able to do so, constitutionalize the *status quo*. If there is any point to the argument made by Delegate Smith of New York, it is to the effect that New York city is not getting a fair deal in the matter of education. The purpose, evidently, underlying his remarks, and that which gave rise to it and point to it, was that possibly at some time in the future the Legislature of this State might proceed on a different theory; it might proceed on the theory that education is no longer a State function but a local function.

Delegate Smith of New York holds up to us as a possible policy of the State hereafter that moneys which are raised in New York city for educational purposes shall be spent in New York city for educational purposes instead of having the moneys which are raised by taxation on the property at large of the State used for educational purposes in the State of New York. In other words, if the argument of Delegate Smith of New York has any point, it is to urge a localization of the educational functions of the State, leaving to New York city the care and control of its problems of education and leaving to the other localities of the State the control of the educational functions in those localities.

Mr. A. E. Smith — I want to save him from using up any more of his time or the time of the Convention by stating that he entirely misunderstands the point of my argument. I am for the State control of education, unquestionably. The point that I tried to make was that in that State control a section of the State has been discriminated against in that superintendents of the schools in the upper part of the State are paid for by moneys contributed by all of the people of the State, while the superintendents in New York are, by statute, paid with the moneys of the

people of New York city alone. It is not that I have in mind a separation, it is not that I would want to subscribe for a moment to the theory that the people of the city of New York are unwilling to put in their fair share for the education of the children of all the State. That is not the point.

Mr. Deyo — Mr. Chairman, I don't think the trouble is mine that I misunderstood the main point of his argument. But, taking the explanation or apology, as the delegate may see fit to term it, his figures were based upon a wrong assumption, to begin with.

Mr. A. E. Smith — I would like to inform my friend that I was not arguing against the form of these bills. I was arguing against the amendment by the gentleman from New York, Mr. Saxe, who proposed to make it read, "the State shall continue its present supervision and control." Now, that is not an apology. It is an explanation.

Mr. Deyo — Mr. Chairman, the statement was also made by Delegate Smith, in the course of his argument, to illustrate the point which he was endeavoring to drive home, that the normal schools of this State are supported for the benefit of the upstate districts and not for the advantage of New York city. Now, everybody about this circle knows that the moneys which are appropriated for the support of normal schools in this State are appropriated for the benefit of all the State; not simply for the upstate districts, but for New York city as well.

Mr. Wagner — Is not the same argument applicable to the normal schools of the city of New York? Are they not for the benefit of the whole State?

Mr. Deyo — Mr. Chairman, the normal schools of the State are open to every person who qualifies from every section of the State. Every Assembly district, whether it is below the Bronx or above the Bronx, is entitled to send a certain number of pupils to the normal schools of this State. In addition to the facilities which are provided for by the State at large in the maintenance of normal schools, New York, Buffalo, Syracuse and other cities which supplement the work of the State normal schools by the maintenance for their own local benefit of normal training classes or normal training schools of their own. That is a matter in which the State has no general interest. They are supported and maintained for the purposes of the locality, and they are properly so supported and maintained.

I want to emphasize the point once more, which I emphasized once before in speaking upon another question that was before the Convention, the pressure of taxation does not rest primarily upon the localities as municipalities. The pressure of taxation rests evenly upon the dollar, wherever that dollar is found, and

because New York city has drawn a circle about itself, and more wealth is found within that circle than is found in any other similarly circumscribed circle in the State, that gives it no right to say that therefore the money raised by taxation on the property within that circle should be spent entirely within that circle. As Delegate Clearwater has just suggested, it may be drawn largely from the country districts; that is true. In view of the arguments that have been made, it seems to me we ought to place this matter in the Constitution where there shall be no possibility hereafter of the statutes being so changed that education can be regarded as primarily a function of the municipality instead of a function of the State. And, therefore, I am in favor of the amendment proposed by Delegate Wickersham.

Mr. Wagner — Can you give us an instance where the Legislature has during the last twenty years passed any legislation in derogation of the supervision and control of education as a State function?

Mr. Deyo — Mr. Chairman, I am not aware of any statute having been placed upon the statute books by the Legislature to lessen the power or the authority of the State in its supervision and control of education, and, so far as I am concerned, I am willing to vote here and now in such a way that it never can do so.

Mr. M. J. O'Brien — Mr. Chairman, I only want to say a word. I am not going to make any address. I am in entire accord with what has been said by Mr. D. Nicoll. I have not heard, and I have listened with great patience, any necessity for any such proposal being placed in the Constitution, but assuming now that it is and the gentleman who has last spoken finds a reason for constitutionalizing this subject, we have this situation — I am speaking now on the importance of our not proceeding with haste. I think every gentleman in this Convention recognizes that this is one of the most important questions that we can deal with, this whole subject of education. The question of this substitute was before the Committee where all the representatives had an opportunity to be heard and where their expressions were given, and as a result of which this proposal, as recommended by the Committee, was presented to this Convention. I do hope that the subject will be deferred, the question of taking a final vote, until the Committee, in the light of this discussion — if they finally conclude that it ought to be again presented, we do not need any very long discussion on it, and we will then all be prepared to vote, but I would not like at this time, in view of the difficulty that I should find in reaching a conclusion as to the course to be taken, to have a vote taken on the substitute now. If it is agreeable to the gentleman who moved it, I would like to have it lie

on the table, or to report progress to the Convention and ask leave to sit again, and then we can take this up. Thus far, I think the subject has been very well presented. We are all indebted to the gentlemen who have given time and attention to it, and we will then have an opportunity to get the benefit of what will be the judgment of the Committee, which will very largely control me. I therefore hope that at least there will be a little time, until tomorrow or the next session of the Convention, during which all of us can have an opportunity of forming our judgments as to the form in which we think this proposal should be placed in the Constitution.

Mr. Wagner — I feel a good deal as Mr. Nicoll does, and also as Judge O'Brien does, about this whole question. I have been studying for several days what was proposed by the word "derogation," and I finally have made up my mind on that, what those who fathered that proposition as being enacted into the Constitution meant or mean by advancing that proposition. But just as soon as my mind is pretty clear upon the meaning of that word, we are now met with a new proposition that we shall use in place of the word "derogation" the word "surrender," and before I vote in favor of either proposition, I want to, firstly, satisfy my mind whether any such provision is needed in the Constitution at all; and, secondly, if needed, what the word "surrender" means.

Now I do not think that we should be — that our conduct in giving a little history of the effect which legislation had upon New York city should be offensive to the delegates of this Convention. I have no idea that Mr. Smith, when he gave these figures, intended to lodge that as a complaint by the citizens of New York against the contribution which they are making for the education of the children of the State, but rather to show that New York city is interested in education quite as much as all the citizens of the rest of the State; and that, without complaint — because they have made no complaint about this — they are making this liberal contribution to the State treasury so that the children throughout the State may be educated, and, in addition, out of their own pockets, are paying for the education of our children in New York city, with practically no State aid, including our normal schools and our colleges. Now, in view of the conduct of the citizens of New York and their attitude toward education, I want to know why it is necessary at this time to make a declaration which in 1894 was found to be unnecessary. Mr. Deyo a moment ago, in answer to my question, said that he could think of no law enacted by the Legislature in twenty years which tended to surrender or was in derogation of the exercise by the State of its supervision and control in matters of education.

In view of all this, what is the point in this new proposal? Why must we now announce in the Constitution that there shall be no legislation in derogation of this power? Why must we now say it shall never be surrendered? Now, if it is intended as a reflection, I protest against it; and if it is unnecessary to put it in there, why put it in? Now, those are the things which are mystifying my mind, and I should like to have a further opportunity to determine for myself just what is meant by this word "surrender," because there are certain features even of questions affecting, perhaps, education, in which I should not want to have the Legislature limited, so that it can never surrender them.

Mr. Schurman — In view of the situation into which this matter has drifted — perhaps I should not say "drifted," but in which we now find ourselves — in connection with this subject, I have desired to submit the matter anew to the Committee on Education. The Convention is now confronted with an alternative which the Committee, since it worked out this final formulation of this Proposed Amendment, has not seriously considered, and if the Convention would report progress, I should ask the Committee to meet immediately after the adjournment of this session, and I could perhaps report to you this afternoon the decision of the Committee in relation to the alternatives now before the Convention. I earnestly hope, Mr. Chairman and gentlemen, that the opportunity may be given to us.

Mr. Wickersham — Mr. Chairman, in view of the statement made by the Chairman of the Committee on Education, I move that further discussion of this measure be postponed until the afternoon session; that the Committee do now arise, report progress and ask leave to sit again upon this measure this afternoon.

Mr. Brackett — May I make this suggestion or, rather, announcement to the members of the Convention? In view of the requests that have been made, I am not going to make any objection to asking leave to sit again on this proposition at this time, but I do want to remind the members of this Convention that every time that a matter has been discussed as fully as this has, and we have then asked leave to report progress and sit again, it simply means a duplication of the time that is taken for the discussion. Therefore, with the utmost wish on my part to have the most unlimited discussion that is required for the illumination of any question, I hope that it will not be regarded as unfriendly by any delegate here if hereafter objection is made where a matter can be carried to a vote in the session — if objection is made to asking leave to sit again.

The Chairman — The question is on the motion by Mr. Wickersham. All in favor of that motion will signify by saying Aye, contrary minded No. Carried.

The Secretary — No. 752, General Order No. 23, by the Committee on Legislative Powers.

Mr. Wickersham — My motion, Mr. Chairman, was that the Committee rise. It is a quarter of 1 now, and Mr. Latson, who is in charge of the next three or four amendments, is in the Committee on Cities, unable to be here, and he has requested me to ask that his matters be not taken up until he gets back, so that I do not think there is any special reason for going on with general orders until the afternoon session. I therefore move that the Committee do now arise and ask leave to sit again.

The Chairman — Your first proposition, the Chair assumed, related to the pending proposition. It is moved now that the Committee rise.

Mr. Wickersham — That the Committee do now arise.

The Chairman — All in favor of the motion by Mr. Wickersham will signify by saying Aye, contrary minded No. Carried. (The President resumes the Chair.)

The President — The Convention will come to order.

Mr. Brenner — Mr. President, the Committee reports that they have risen, reported progress and ask permission to sit again.

The Secretary — The Committee of the Whole, having had under consideration Proposed Amendment No. 745, Introductory No. 698, by the Committee on Education, reports progress thereon and asks leave to sit again.

The President — All in favor of granting leave for the Committee to sit again will say Aye, contrary No. The motion is agreed to and the leave is granted.

Mr. Wickersham — Mr. President, I move the Convention do now recess until 2:30 p. m.

The President — Mr. Wickersham moves that the Convention take a recess until half-past 2 this afternoon. All in favor of that motion will say Aye, contrary No. The Ayes have it and the Convention stands in recess until half-past 2.

Whereupon, at 12:45 p. m., the Convention took a recess until 2:30 p. m.

AFTER RECESS

The President — The Convention will come to order.

Mr. Wickersham — I move that the Convention do now go into the Committee of the Whole and continue the discussion which it was proceeding with this morning when the Committee rose and reported to the Convention.

The President — It is moved that the Convention go into the Committee of the Whole for consideration of the calendar. All in favor say Aye, contrary No. The motion is agreed to.

Mr. Brenner will take the Chair.

(Mr. Brenner takes the Chair.)

The Chairman — The Convention is now in the Committee of the Whole. The Clerk will read the calendar.

Mr. Wickersham — I move that the Committee of the Whole resume the consideration of the number which was under discussion when the Committee rose.

The Chairman — You have heard the motion by Mr. Wickersham. All in favor signify by saying Aye, contrary minded No. The motion is carried.

Mr. Schurman — Mr. Chairman, the Committee on Education has been in session and has carefully considered the proposal which was made or suggested in Committee of the Whole this morning relative to the substitution for the Committee's Proposed Amendment of another amendment which has been on our files, and the Committee with fifteen members of the seventeen being present, unanimously voted to adhere to its own Proposed Constitutional Amendment.

You will remember, sir, that in the very able and instructive speeches to which we listened from Senator Blauvelt and afterward from Mr. Marshall this morning, they agreed entirely with the report of the Committee. They were satisfied with it. I am glad at the very outset to call that fact to the attention of the Committee.

The question of home rule has been mentioned more than once in the Convention, and it has been considered in connection with this Proposed Constitutional Amendment. We must, I think, frankly recognize that, considering the practice of this State and the line of judicial decisions, we are perfectly right in saying that in respect to education, at any rate, there must be an exception to the home rule program. Whatever else the State reserves to itself, whatever functions it shall keep unimpaired in its own hands, education will and must come first.

Some reference was made this morning in remarks by various speakers to the relation of this Proposed Constitutional Amendment submitted by the Committee on Education, to private and parochial schools. I think perhaps that question has been sufficiently answered by the speeches to which you have listened, especially the speeches made by Mr. Kirby and Mr. C. A. Weber, but I desire, if I may be allowed, to supplement in a few words the very impressive and convincing statements which they have already made. I want once more to call attention to the fact that the Committee on Education represents in its membership all the fundamental faiths of the country. I want to say that the bearings of this and of every other amendment proposed on private and parochial schools were carefully considered and we reached, in the amendment which the Committee presents to the Convention, a proposal unanimously, cordially indorsed by every member of that Committee. And, as I happen to know, some of the members of the Committee had opportunities of consulting their friends who are especially interested in private institutions regarding the possible bearings of this Proposed Constitutional Amendment upon those institutions.

I think, therefore, Mr. Chairman, that we can say there is absolutely no doubt about the attitude of the Committee, and after listening to the able speech of Mr. Marshall, I think every one must be convinced there can be no doubt about the bearing of the language used by the Committee in expressing their views.

There remains the question to which I proposed — or before I come to that I want to make another statement regarding the relation of this Proposed Constitutional Amendment to private and parochial schools.

It has been suggested that there was something behind this proposal. I think that suggestion is too absurd to need refutation. But if there is any lingering, any doubt whatever, either here or outside this hall, I want to repeat most emphatically that all there is in this Proposed Amendment is on the face of it.

Furthermore, I desire to say on behalf of the Committee, speaking for it, and for it unanimously, that we have not intended to make any change in the nature or extent of the supervision and control which the State now exercises over private and parochial schools. On the contrary our object in the consideration of every amendment that has come before us in which the issue was involved was to see to it that the existing relation between the State and those institutions should remain absolutely unchanged.

Mr. Chairman, there remains the other issue to which Mr. D. Nicoll very forcibly called our attention towards the close of the session this morning. I understand Mr. Nicoll's position — not

perhaps his ultimate position, but the position which he voiced in making that inquiry — to be substantially this: Assuming that everything the Committee and its numerous friends on the floor of the House have said in favor of this bill, is true, what is the need of putting it into the Constitution? Why constitutionalize the *status quo*? Isn't it enough in revising the Constitution to incorporate only such amendments as meet some evil, as redress some evil which has developed since the last Constitutional Convention met? I find myself, Mr. Chairman, entirely in sympathy with the views and predilections which inspired that question. It is a fair question and I think we must answer it to the satisfaction of the Convention, and I hope and believe we shall be able to do so. I call attention, in the first place, to the fact that in 1894 the Constitutional Convention did insert new articles in the then existing Constitution.

From the point of view at which we now find ourselves, none of those changes were more important or significant than the article on education, providing for the first time in the history of the State for a system of free, common schools. That article was inserted because the policy had been established and because in other States of the Union similar constitutional recognition had been given to such a policy.

We find ourselves to-day in a similar position. A certain policy has been established in the State in regard to the control and supervision of education.

Education, Mr. Chairman, is the most important of all the activities of the State, as I think every gentleman on this floor will concede. It has to do with the training of the rising generation and their preparation both for citizenship and for living worthy lives as individuals.

If you could make an exception for the special incorporation of a clause or article in the Constitution referring to any one activity whatever with which the State is concerned, that exception would in the first instance be made on behalf of education.

But, Mr. Chairman, it isn't merely that this is a transcendent function of the State, it is not merely on that ground that the Committee on Education asks to have it recognized in the Constitution. We are asking not only for its recognition; we are asking for its protection. Now, Sir, although the policy which we have prescribed is the established policy of the State, it cannot be said that it is accepted by everybody. It must be admitted there are certain exceptions. We had gentlemen come before the Committee on Education recommending, in substance, that this policy be adopted and that, substantially, the schools be turned over to the municipalities; that education be treated substantially like

street-cleaning, as a municipal function. That contravenes the established policy of the State as it has been established in practice and conferred by judicial interpretation; and that, in the opinion of the Committee on Education, would be to imperil the greatest interest which the State of New York is charged with. We ask, therefore, that this article be inserted in the Constitution, not only in recognition of this transcendent function, this all-important policy, but that it be inserted for the due protection of the educational interests of the State.

I referred to hearings before the Committee on Education. But, Mr. Chairman, I am not confined merely to hearings before one committee of this Convention for evidence. There has been in the last two years a great growth of the sentiment in favor of home rule. I, for one, favor that sentiment, and hope the Committee on Cities will be able to report to us a Proposed Constitutional Amendment which the Convention can adopt. But, Mr. Chairman, that idea, like any other idea, developing and strengthening itself in a community, inevitably leads to excesses, and one of the excesses to which it leads is, more particularly on the part of the large number of men who come to this State from foreign countries and are unacquainted with our institutions, that even education should be delegated by the State to the municipal authorities — the care, supervision and control of it. Now, in evidence of that fact, year after year bills are presented to the Legislature for the enactment of such a policy.

I hold in my hand copy of a bill presented March 3, 1914, in the Senate, No. 923 — An act to provide a new charter for the city of Mount Vernon.

The point I am about to make is that if such a clause as the Committee on Education is recommending had been inserted in the Constitution where the people of the State might read it, such a proposal as the bill I hold in my hand would in all probability never have been presented to the Legislature.

Here is a bill, Sir, which proposes to make the mayor the board of education of the city. Here is a bill which gives him power to employ and dismiss teachers and fix their salaries. He may employ and dismiss a clerk, and so on, for the administration of the business of the school districts and fix their compensation. He may make regulations for its government, and for the government of its employees. The mayor, as the sole trustee, shall have the power, subject to the provisions of this act, to purchase, take, lease and hold all kinds of real or personal estate in trust for the school district, for the support and maintenance of public schools, or for any of the purposes of education in said city.

Subject to the provisions of this act, the mayor, as sole trustee, shall have the power to do each of these. One, to establish and

organize in said city such and so many other schools, including night schools, as he shall deem requisite and needed; to establish and maintain, whenever it is deemed expedient so to do, one or more high schools, trade schools and secondary schools; to purchase, construct, furnish or hire, sell or dispose of, schoolhouses, or sites, and alter and improve schoolhouses and appurtenances, as he may deem advisable; to license all teachers employed in the schools of the city in the same manner and with like effect in said city as the school commissioners in counties."

Mr. Wagner — Would you say that that proposed law was in derogation of the principle that education is a State function?

Mr. Schurman — I would say that that proposed law contemplates the transfer to the political authorities of a municipality the supervision and control of education, which is by established policy vested in the State independent of the municipalities, and that proposals of that nature would not in all probability come before the Legislature if the principle which the Committee on Education is contending for were firmly established and written into the Constitution.

Mr. Wagner — I don't think I made myself clear. Would you call that proposed law constitutional, as being in contravention to the proposal you are now advocating, or is that merely a delegation by the State of certain of its functions to a locality and would therefore still be enacted under the proposed provision?

Mr. Schurman — That is a legal question and I can only express my own surmise — I don't think I would go beyond that — that it would be in derogation of the powers of the State.

Mr. Griffin — Does not the gentleman know there is no power on earth, either in the Constitution or out of it, to prevent a foolish legislator from presenting to either House a foolish bill?

Mr. Schurman — Bills of this sort, Mr. Chairman, I will say indicate a state of the public mind which needs correction, which needs rectifying, and we think that this bill would go a long way toward the accomplishment of such a result.

The great argument, however, in favor of the incorporation of this Proposed Amendment into the Constitution is the importance of the subject at stake, and the need of protecting it. What is a constitution for, a written constitution, but to recognize such supreme and transcendent policies? Are not we now engaged in considering the advisability of incorporating into the Constitution protection for the Public Service Commission? One of our committees has been giving a great deal of time to the question and the men all agree with me as to the desirability of such protection. But it serves as an excellent illustration of the point I

desire to make, namely, that the function of government recognized by us as of supreme importance is entitled to constitutional protection in a country in which we have written constitutions.

Now, Mr. Chairman, I do not desire to take up more of the time of this Convention. This subject has been exhaustively threshed out in different cities. I think the time has come for a vote, and I hope the Convention will now vote upon the question.

Mr. Wagner — Mr. Chairman, just one more question, if I may, and I am through. The power which it was attempted to give to the mayor of Mount Vernon, by the act which you have just cited, is the power now enjoyed by the board of education in the city of New York, so that under your theory, if after this provision were adopted a law should be passed giving the board of education of the city of New York the powers which they now enjoy, you would say that that power was in derogation of education as a State function, and therefore was unconstitutional?

Mr. Schurman — I should think, Mr. Chairman, that the answer to that question would depend upon the disposition which this Convention makes of the companion bill submitted by the Committee on Education, namely, the bill having to do with boards of education and their functions.

Mr. Wagner — No, Mr. Chairman, if I may interrupt, I beg to differ with you. It may be my fault that I do not make myself clear. I do not think that depends upon any constitutional provision. You gave as an illustration of a proposed act which you considered — that is, giving certain powers to the mayor of Mount Vernon, and your contention was that that was in derogation of education as a State function. Now, I say that the powers which you complained of there were powers which are now exercised by the board of education of the city of New York.

Mr. Schurman — I doubt that, Mr. Chairman. I think they are quite different, and the point I was making was that those who were behind that bill conceived of education as a municipal function and proposed therefore to make the political head of their municipality the sole board of trustees and to clothe him with all the powers that boards of education ordinarily have.

Mr. A. E. Smith — Will Senator Wagner yield to a question? I want to get myself as clear as I can on it. Has the board of education in New York city at the present time the right to grant licenses to teachers without any interference from the State Educational Department?

Mr. Wagner — As I understand it — and I may be mistaken; I am not clear upon these questions. I am trying to get information. As I understand it, the State has a supervisory power over the standards to be fixed as qualifications for school teachers, but

the examination papers are absolutely made up by the board of education in New York. The examinations are held under the supervision of the board of education of New York, as I understand it. The papers are examined and the marks determined by employees of the board of education in New York and the licenses, as I understand, are issued by the board of education of the city of New York.

Mr. A. E. Smith — Do you think that that provision of the proposed Mount Vernon charter which gave to the mayor the right to issue licenses would have to be read with any other law, or would he have the power to give them out under any rules and regulations that he might, himself, establish, or by virtue of any standards that he might, himself, set up?

Mr. Wagner — Well, in the first place, I think it was an unfortunate proposal. I would be opposed to giving the mayor all that power, but what I contend is this, and what I am trying to find out is this, whether derogation of power by this provision of this Constitution will prohibit the delegation of power.

That is the point. Now, it seems to me that that provision in the Mount Vernon charter in simply delegating to a local authority certain of the State functions is not surrendering them. Now, if every delegation is in derogation, why we are going to have a very unfortunate situation in the city of New York.

Mr. Marshall — A delegation is not in derogation. It is creating an agency, that is all.

Mr. Wagner — Is not this creating an agency?

Mr. Marshall — This goes much farther. This uses these extraordinary words, "To have to the exclusion of all boards and officers, except the Regents of the University, the entire supervision and management of the public schools of the city." It excludes everybody except the Board of Regents.

Mr. Wagner — Well, in the exercise of that State function the Board of Regents is the supervisor for the State.

Mr. Marshall — It singles out a single board of the State authorities. It excepts the Board of Regents but leaving out of consideration altogether the State at large as a State. It merely singled out one of the bodies of the State which deals with education and which has not exclusive jurisdiction over the subject.

Mr. Wagner — Well, of course, the act itself could be amended the following year.

Mr. Marshall — As I understand the point which was made by President Schurman simply was that there was a danger, unless there were in the Constitution language such as has been proposed indicating it to be the purpose of the State — of this Convention to make of education a State function, there might be

possibly enacted measures of which this is an example. And some of which might go even farther than that, and hence the desirability of laying down a general rule. That is all I understand that President Schurman had in mind.

Mr. Schurman — That is perfectly correct.

Mr. Wagner — I am not at all in sympathy, of course, with that proposal from Mount Vernon. Would you consider giving the city of New York through legislative enactment, if this provision were in effect, complete control over the expenditures incurred by the board of education — would you consider that an act in derogation of education as a State function, and, therefore, in contravention of this provision?

Mr. Marshall — I have no doubt it would be entirely constitutional to give to the city of New York the power to deal generally with the expenditure of funds and the raising of funds for the purpose of meeting this State need of education. If the law were so enacted as practically to amount to a starving of the schools and absolutely neglecting, as for instance, to make a provision so inadequate that a large proportion of the children of the city of New York would have no opportunity to have schooling, then I would consider it to be in violation of the principle that the State has to exercise the duty and function of giving instruction, but beyond that there is nothing in this provision which prohibits the giving of authority to the city as the agent of the State to carry out this State purpose, just as in other branches of our law there is a designation of agencies, local in their operation, to perform a State function. For instance, the city of New York has to pay the expense of maintaining the courts within that jurisdiction — certain courts. That certainly is a State function.

Mr. Griffin — Under the terrible example quoted by Mr. Schurman, of a bill propoing to vest in the mayor of Mount Vernon plenary powers as to education, and to control the entire school system of that city, I want to ask Mr. Marshall, whether, in his opinion, if that bill were presented and the present provision which we are discussing were in the Constitution — would he consider that such a bill as that, that terrible example, as in derogation of constitutional powers vested in the State?

Mr. Marshall — I have already answered that question. I have not had an opportunity to see this bill until a moment ago. I can see that there are certain features which would be of very questionable constitutionality, in view of the fact that it apparently, by expressed terms, excludes the State from exercising its functions. They say so in so many words, except under certain limitations set forth in the Constitution, that the State should not

exercise its functions. I am not prepared to say to what extent that bill is unconstitutional, or would be unconstitutional except that I do say that it is a very strong evidence that under such legislation we would be on the very verge of unconstitutionality, to say the least, and it, therefore, is strong evidence of the necessity of a declaration of State policy which should be maintained in respect to matters of this kind. I think it is asking too much of anybody offhand to determine whether or not a law is unconstitutional or otherwise. The important question is, is this a proper principle to be put into the Constitution, and if it is there, when the occasion arises, it will be very easy to determine then whether or not a bill is or is not within the purview of that constitutional provision.

Mr. Griffin — That is just the point, and I would like to ask the gentleman, who will determine whether it is in derogation of State authority or not?

Mr. Marshall — In the first place, we would have the Legislature sworn to observe the Constitution, which would be very careful to avoid a violation of the Constitution. Then we would have the Governor who would also determine that question when called upon to approve or disapprove of the bill; and then, finally, we would have the courts who would vindicate the constitutionality of this statute, as they have in the past.

Mr. Griffin — And then, Mr. Chairman, I want to ask the gentleman, after he has got all through with that, does he consider that any constitutional provision which opens the door to such a rigamarole as that is good constitutional craftsmanship.

Mr. Marshall — I don't know what rigamarole you are referring to, whether it is this bill of Mount Vernon, or something which I have not seen, and cannot, therefore, pass upon.

Mr. Griffin — The rule of grammar that the last thing spoken alludes to its antecedent answers that.

Mr. Wickersham — Mr. Chairman, I withdraw the amendment which I moved before the adjournment. While I prefer the language of that amendment to the language of the report, in view of the report which Chairman Schurman has made, showing that Committee has given it very careful consideration, I do not mean to urge my impression of the moment against their mature judgment.

The Chairman — The question now is on the amendment proposed by Mr. E. N. Smith. All in favor of its adoption will signify by saying Aye, contrary minded No. It seems to be and is lost.

The question now is on the adoption of the proposition.

The Chairman — All in favor of its adoption will signify by saying Aye, contrary minded No. It seems to be carried and is carried.

Proceed with the calendar.

No. 756, General Order No. 28, by the Committee on Taxation.

Mr. M. Saxe — Mr. Chairman, I make the usual motion with respect to that article.

Mr. Wickersham — Mr. Chairman, I should like to supplement the Proposed Amendment in the first section of this measure, pursuant to the suggestion which I made when the matter was under discussion a few days ago, to amend Section 1 of the article by adding after the word "repeal" in line 8, the words "but without prejudice to any contract of exemption heretofore made under authority of such laws." That is for the purpose, Mr. Chairman, of making it perfectly clear that it is not intended by the authorization to repeal a statute authorizing exemptions, any contract of exemption which may have been made under authority of these laws before they are repealed. I understood the gentleman having the measure in charge to agree that that was what he intended by the measure, and that he would welcome an amendment which would make that perfectly clear.

Mr. Olcott — Mr. Chairman, may we have that read again, if you please?

The Chairman — It is not in the possession of the Clerk; therefore he is unable to read it.

Mr. Marshall — Where would it come in?

Mr. Wickersham — Insert in line 8 after the word "repeal," the words "but without prejudice to any contract of exemption heretofore made under authority of such laws."

Mr. Clinton — I do not quite, Mr. Wickersham, get the force of the amendment. If any question came up as to the applicability of that sentence, the first question to be determined would be whether the statute amounted to a contract, would it not?

Mr. Wickersham — Mr. Chairman, I meant that to go a little further than to merely exempt a contract which was beyond any question a binding contract. Following the suggestion which Mr. D. Nicoll made a moment ago when we were under discussion the last time, I think the State should protect its moral as well as its legal obligations and my suggestion goes to the power of repealing the existing statutes and that it should be "without prejudice to any contract of exemption heretofore made under authority of such laws," leaving it to the Legislature to determine then if there were a question of doubt as to whether the contract was an absolutely binding and enforceable one, whether or not it was such a moral one as to be respected by the State.

Mr. Clinton — Well, Mr. Chairman, let me make a suggestion. The word “contract” has a technical and legal meaning, as I understand it. It is not a contract if it is not under proper consideration, or if it be beyond the power of one of the contracting parties to enter into it. Therefore it seems to me that the use of the word “contract” does not accomplish what you wish.

Mr. Wickersham — Well, I think it does.

Mr. Clinton — If the word “agreement” were used —

Mr. Wickersham — A contract may be an obligation, or an agreement, although there may be some question as to enforceability and yet it may be recognized as a moral obligation.

Mr. Clinton — I see what you are seeking to reach, and I am simply trying to aid as a lawyer with my technical, narrow views, carrying out your intent.

Mr. Wickersham — I would be glad to have you suggest another term, Mr. Clinton.

Mr. Clinton — I merely suggest the word “agreement” which does not necessarily involve the idea of a binding, legal contract.

Mr. Wickersham — I will accept the amendment; if “agreement” seems a broader term I will accept that amendment.

Mr. Marshall — I don’t like that phraseology. The phraseology is not so good.

Mr. Wagner — If the idea of this provision, if we are going to use this Constitution in order to ease the apprehensions of some gentlemen who have paid a tax upon secured debts, that no matter what we may say in our fundamental law, those particular individuals are protected forever, and that their exemption is preserved, if that is going to be the attitude of this Convention, I suggest to Delegate Wickersham that he simply take out from this provision the word “heretofore,” without putting in a specific provision, that we save from any apprehension those gentlemen who have brought forth their secured debts and paid the State a tax.

Mr. Wickersham — Well, Mr. Chairman, that would not — I beg your pardon.

Mr. Wagner — Won’t that do it?

Mr. Wickersham — No, Mr. Chairman, I think it would not, because there is a very great difference between repealing a law under which different exemptions are given in consideration of something which the State has deemed adequate, and repealing contracts entered into in good faith in reliance upon the law while it was in force, and it seems to me that we ought not to enact a Constitution which would open the State of New York to the imputation of attempting to violate contracts which it has solemnly entered into. So far as a matter of protection for the future is concerned, I quite agree with those who desire to prevent the State again tying its hands regarding the taxation of property.

Mr. Wagner — Well, may I make a further observation, Mr. Chairman — and I may be wrong about that. If this is a contract, it does not need any constitutional protection, because if we do anything to impair that contract, it would be in contravention of the Federal Constitution. Now, if it is not a contract, why, your proposed amendment to the Constitution will be ineffective. So, in any case, if it is a contract, your proposal is unnecessary because you can't impair it. If it is not a contract, your proposal is ineffective and therefore what is the reason for doing anything?

Mr. Wickersham — For the very reason, as I pointed out when this matter was last under discussion, that we do not want to adopt a Constitution containing a provision which has to go to the Supreme Court of the United States to be stricken down, as an impairment of the obligation of a contract, and I understood the Chairman of the Committee on Taxation, when he brought this measure in and explained it, to say that he had no intention of so framing it as to open it to that imputation, and yet, on its face, I conceive it would be open to that imputation, and therefore, it ought to be made perfectly clear so that the Constitution of the State of New York shall not be open to any possible construction of endeavoring to impair the obligations of contracts solemnly entered into.

Number two. The question has been raised here — I confess I had not thought that it was questionable — the question has been raised here whether or not the Legislature had the power to make an agreement with anybody that, in consideration of certain benefits received, certain property should be exempted from taxation in the future. Nevertheless, the Legislature did it, and the Legislature has collected taxes on, I am told, about one billion dollars' worth of property which would probably never have been collected in any other possible way except under the invitation to the owners of that property to tender it, making a payment and receiving a contract to the effect that that property should be thereafter exempt from all taxation.

Mr. D. Nicoll — Has not the Supreme Court held that it may do that?

Mr. Wickersham — I understand that it has, but I say we ought not to leave it equivocal. If the State had not the actual, technical authority to do that, nevertheless it should be free to the Legislature to recognize the moral obligation, and not attempt to impair it even though it had constitutional authority to do it. Therefore, my suggestion is that in providing for the future, the Legislature should not surrender the power of taxation, and that in the future it should not make any agreements exempting property, and that it might repeal laws entered into in the past for that purpose.

That should be without prejudice to any agreement — using the words of my friend from Erie — without prejudice to any agreement heretofore entered into to that effect.

Mr. Wagner — In other words, Mr. Chairman, you are simply trying to legislate what you conceive to be a moral contract into a legal contract.

Mr. Wickersham — No, quite the contrary. I am seeking not to have legislated into this Constitution an impairment of a moral or legal obligation.

Mr. Wagner — That is going pretty far.

Mr. D. Nicoll — I should think it was of first importance.

Mr. Wagner — We are not dealing with morals here.

Mr. Wickersham — I hope we are.

Mr. Wagner — Not in that sense.

Mr. Nixon — I desire to present the following amendment to the proposed tax article and ask that the Secretary read it.

The Secretary — By Mr. Nixon — Strike out the first section of the tax article reported by the Committee on Taxation and now under discussion, and substitute the following:

Section 1. No tax exemptions shall be granted on any real estate not owned by the Federal, State, county or municipal governments, except that places of worship with the ground on which they stand and the necessary approaches thereto shall be exempt from taxation. The legislature shall enact such statutes as are necessary for the enforcement of the foregoing provisions.

Mr. Nixon — My original amendment, providing for the abolition of all real estate tax exemptions, except upon property owned by the Federal, State or municipal governments, was referred to the Committee on Taxation. Upon the Proposed Amendment two public hearings were held, at which opposition developed only from New York city. That opposition was voiced by attorneys representing the Roman Catholic Church, as stated by Attorney Guthrie, and by the heads of institutions which would be affected by the adoption of the tax-exemption abolition proposition. On the other hand, there appeared for the Proposed Amendment a large number of representative citizens, among them several pastors of churches, who reflected the sentiment of their respective congregations, coming by request of the citizens of their home cities to appeal to the Committee for justice and equity. They were from New York, Schenectady, Troy, Utica, Syracuse, Rochester, Binghamton, Elmira and Buffalo. An active pastor of an Albany church was among them. They came at their own expense, and in performance of what they believed to be a civic duty, to urge upon the members of the Committee favorable action upon the Proposed Amendment, that a great and rapidly expanding abuse of privilege might be corrected. In addition to the

arguments of these patriotic supporters of my proposal, there was filed with the Committee, more than a thousand letters from business and professional men from all sections of the State, urging the Convention to take proper steps to abolish existing exemptions. These letters were never read before the Committee, nor was any action concerning them asked by the committee chairman. On a motion made at an executive session to report my amendment favorably to the Convention, a vote of eleven to four, adverse to the proposal, was had. At a subsequent meeting, the present article regarding taxation, the first section of which my present amendment is intended to replace, was voted out, with the express understanding that the members of the Committee were not bound to support it in the Committee of the Whole, nor in the Convention proper. The public was misled into the belief that the Committee was unanimous with the exception of one vote. In all the mass of correspondence, received from all sections of the State, relative to the subject of exemptions, no opposition to my Proposed Amendment has appeared, and the only suggestion of modification which has been made, is that possibly places of worship, churches and the necessary ground on which they stand, should be allowed to remain in the exempt class. That suggestion has been acted upon in the amendment I now offer.

Mr. Chairman, I have never attempted to take up the time of the Convention by joining in a needless discussion of trivial questions, and I have no intention of doing so. But this is a serious, a vital subject, and deserves close and earnest consideration. It should not be approached with biased mind, but with a dispassionate desire to act with fairness and justice. No matter what may be the final action of the Convention relative to it, the question is educational in its character, and whatever of debate may be induced will be beneficial, as serving to quicken public interest and stimulate investigation of the facts as they exist. When the people come fully to realize how they are being duped by land speculators, in the guise of church and charity sympathizers, there will be a revolt from existing conditions, which nothing short of absolute abolition of tax-exemptions will still.

Mr. Unger — Mr. Nixon, do you believe that bona fide charity organizations and bona fide educational institutions should be taxed?

Mr. Nixon — I see no reason why they should not.

Mr. Unger — Do you not know, Mr. Nixon, that these institutions perform great public functions?

Mr. Nixon — I believe they do.

Mr. Unger — Mr. Nixon, do you believe, then, that these institutions which perform such great public functions should be put to the added burden and the added expense of paying taxes?

Mr. Nixon — There are many institutions, many enterprises, many industries in the State, which perform great public functions which make no request for exemption from the regular burden of taxation. I maintain that the institutions which are supported by the government, which live by favor of the government, should not ask to be relieved of their just proportion of the burden of that taxation.

Mr. Unger — Will you name some of those great public institutions and tell me whether or not they are profit-making?

Mr. Nixon — I have not prepared a list at the present time, but I ask, Mr. Chairman, that I be permitted to proceed with what I have to say, with all deference to the kindness of the gentleman, promising when I am done to answer any questions that I am able to answer.

In considering the present tax laws, as to their relation to the best interests of the people, the dominant principle to be observed should be that of equal rights and equal privilege. Unjust discrimination against one class of citizens for the benefit of another class should not be tolerated by a great and supposedly impartial government. There was a time when common regard for Christian religious sympathy and support counseled the granting of exemptions, as an encouragement for church maintenance. This concession was rather the result of sentiment than of real necessity. While perhaps justified, owing to the financial weakness of the church at that time, the granting of such a concession was a partial infringement of the principle of equal rights, by increasing the tax burden of one class, the nonchurchgoer, to lighten the burden of another class, the churchgoer. This exemption was then, as it is now, a donation to the churches, in which, willingly or unwillingly, the smallest taxpayers, in or out of the church, contributed and does contribute his due proportion.

But this amendment is not directed against church exemptions from taxation, except as those exemptions constitute one factor in the general scheme of tax evasion, or repudiation, which has developed as the result of that first concession. Unhampered by constitutional restraint, Legislatures have time and again granted extensions of the exemption plan, until it now covers a wide and diversified range of beneficiaries, many of them revenue-producing, practically *all* the objects of wealthy philanthropy. On the introduction of my original amendment, the newspapers, or a majority of them, flashed the information to the public that an attack was being made upon the churches, and ever since they have sought to convey that impression. No more misleading statement was ever put in cold type. Neither is there any basis for the suggestion that it is a sectarian measure. It is aimed solely against a general

and serious evil which has developed with increasing rapidity as the years have passed. It is the evil of special privilege, fostered by partisan legislators for political effect, and without regard for the interests of the people at large.

No discrimination is shown in the proposal, in favor of, or against, any denomination or creed. While the church, outside of the building itself, is included in the scope of property it is sought to make taxable, churches are in reality only a small part of the whole, a part which would still be materially reduced, if the property now coming under protection of church exemptions unfairly and illegally, so far as the moral principle is concerned, were deducted. Churches and their institutions in the entire State are exempt to the amount of \$257,023,685, about one-fifth of the total exemptions which should with absolute justice be subject to taxation. In the city of Buffalo, out of a total exemption of \$65,354,280, about \$13,000,000 is church controlled property. This is, in that city, about one-half of the real estate, exclusive of that owned by the Federal, State and municipal governments, which is exempted. With something like \$25,000,000 in assessed valuation outside of Federal, State, county and municipal property, exempt, and with the municipal tax rate at \$26.10 per thousand, as it now is, the Buffalo taxpayers, in addition to their own assessments, are forced to pay \$6,418,735 this year to make up the taxes of their exempt neighbors.

Do the delegates of this Convention believe that was the intent of the framers of the original exemption law? Here in Albany, which, according to the official report of the assessors, has a total real estate exemption of \$58,040,165, there is only \$11,665,015 which would be taxed, if all this property, except that government owned, was forced to pay. Of this amount less than one-half comes under church control.

But we must bear in mind that the assessment of exempt property as published cannot be regarded as its true valuation, for the assessed value of this property does not increase as does the value of taxable property, at least not in the assessment roll.

I have it from an assessor, not in Albany, but nearby, that the assessors pay very little attention to that property classed as exempt. Valuations fixed years ago are allowed to stand unchanged, and for this reason it is safe to assume that the valuations are altogether too low. Otherwise the exemptions would foot up to a much higher figure than at present.

It is the abuse of the exemption law which has brought it into discredit; abuses coming, not from a direct violation of the law, but from an evasion of the intent of the law.

Certain social clubs have their constitutions drawn so adroitly that they are brought under one or another of the exempt clauses.

They become known to the assessors as either scientific, literary, library, patriotic, historical, or moral and mental improvement societies, and this without special act of the Legislature.

Some fraternity may decide that it would reduce its expenses if it could creep under the protection of the exemption law, and it adopts similar tactics.

A trifling alteration of the wording of the constitution is all that is required. Oh it is easy enough if the officers are of a mind to put their tax burden upon the home owner, who in many cases has his heart and hands full to meeting the tax law requirement.

When we consider that fully a billion dollars of assessed property in this State which should, with absolute justice, be taxed, is found in the exempt list, the wonder is that the tax-paying class does not set up such a howl of protest that legislatures will be forced to wipe out the entire exempt list.

Next to the churches, probably the strongest plea for continuing the tax exemptions which are unfair to the home owner will be made by the so-called charitable institutions. Exemptions are granted to this class of institutions to the amount of \$75,691,000, and it is safe to assume that the property of this class is not assessed at anywhere near its proper value.

Now, if charitable institutions, so-called, were true to their names, it would not be so unreasonable to extend to them the charity of tax exemption, but it is a fact which cannot be successfully refuted that these, in some cases, at least, take on the resemblance of real estate associations. Land is bought at low prices and held under the plea that it is ultimately to be used for the purposes of the institution. This is true, in a literal sense, for in many cases the property is sold for purposes entirely separate from the institution at substantial advance in price, the profits going into the institution treasury. But how about the moral sense? How naturally will legitimate real estate dealers, who pay their just taxes, regard this invasion of their rights?

A well-known New York institution for moral and mental improvement (what a handy term) years ago bought a piece of property as a site for the proposed institution, paying for the same \$50,000. And by the way, at this time its founders received from the city of New York the very handy sum of \$50,000, as a donation. Later this property was sold, I am creditably informed, for \$150,000, making a clear profit of \$100,000. Another property, bought by the directors of the institution for a new site, was later sold at an even heavier advance from the purchase price. More recently a further investment in real estate has been made by the same institution in an adjoining county, the purchase including 300 acres, which I am told is valued at \$800 an acre, or \$240,000.

I understand the purchase price was \$125,000, about one-half its present value, and a delegate in this Convention who knows the property, states that the reported valuation is entirely too low. Now let's see. On none of these three properties did the directors of the institution pay tax, though it receives substantial assistance from the city of New York each year and a State appropriation amounting to as high as \$165,000 in a single year. Over this institution the city of New York has had no control, as to salaries or other expenditures by the board of directors, who elect their own successors, and permit a very limited number of the members of the board to manage and direct the entire scope and plan of the institution's administration. And the county in which this institution is now located is forced to see a quarter of a million dollars' worth of its property removed from the tax list, thus increasing the burden of the remaining taxpayers.

Let me go a little further with this subject. From a statement issued by the directors of the institution referred to, we find that in the first year of its existence, as previously stated, it received from the city of New York, for investment purposes, \$50,000, and during its existence, \$110,000 more for the same purpose. In addition, there has been paid to the institution by the city and State, for school and maintenance purposes, the enormous sum of \$5,109,760.30. This amount, of course, came from the pockets of the taxpayers, going to the support of an institution which under the exemption law was relieved of the tax burden. But this sum does not include the amount which the people have been compelled to pay in taxes, as a result of the institution's exemption. Is this equitable? Is it just? Is it not rather an example of special privilege?

Abuses of the privilege of exemption are numerous. I have in mind another so-called charitable institution which several years ago bought at a low figure an extensive tract of vacant land on the edge of a growing city. Buildings were erected on a small portion of this tract, the balance being held free from taxation, on the assumption that it would ultimately be used for institutional purposes. It remained vacant until the extending city surrounded it with factories and homes. Then its promoters seized the opportunity, had it surveyed into city lots and put them upon the market at a price above \$100 a front foot. These are not isolated cases. They have their counterpart in every city in the State. Is there any member of this Convention who believes that such speculation would have been sanctioned by the framers of the original exemption law?

Cemetery associations? Yes, their property is exempt from taxation, though in many cases cemetery associations are formed

for purely speculative purposes. I may cite a case where five men organized such an association, paying \$200 an acre for the site and selling the burial plots at \$1 a square foot. After a few years seventy acres, an adjoining farm, was added to the holdings of the association. On this new property a single burial was made and the entire tract was entered in the exempt list. Since that time it has not been found necessary to use the new property for burial purposes, but it has returned its owners substantial profits as an agricultural proposition.

Colleges and universities are revenue producing. How many of the taxpayers who aid in their maintenance by assuming the tax burden that they should carry, have been financially able to give their sons the benefit of these educational institutions? Only a small percentage, surely. Why should they be in the exempt class? They are the constant beneficiaries in large amounts from admiring and philanthropic patrons. Where is the logic of releasing them from the duty of aiding in the support of government? It was argued before the Taxation Committee by the Vice-President of this Convention, that while the institution over which he presides owns much property which the people of Ithaca with some reason believe should pay a portion of the tax, an offset is found in the fact that the presence of the University has brought the city into prominence and increased the value of other real estate within the corporate limits. All of which is of course true, but illogical as argument for the retention of tax exemptions. Other cities have been built by the location of institutions, industrial rather than educational, which have not been exempt from taxation because of their influence on the city's growth. Just over the city line of Buffalo, an enormous steel plant, which in its activity employs over 6,000 men, has been the one principal factor in building up a separate city of substantial size, but there has never been any idea, on the part of the promoters of the enterprise, or the assessors of Lackawanna City, of putting the valuable property of the Lackawanna Steel Company in the exempt tax list. But the location of that steel plant did give a certain "moral and mental improvement" institution an opportunity to sell at a substantial profit, a tract of land it had been holding for several years free from taxation. It is now in the possession of the home-owners and of course there is no exemption for them.

That is an unjust law which discriminates against one class for the benefit of another class. No more flagrant example of such unjust discrimination has ever been presented than that of tax exemptions.

Laws which made it possible were class legislation of the most dangerous character. The elasticity of the tax law permits the

stretching of exemption to an extent which may well be regarded with grave apprehension. How elastic is the exemption clause? Let us see. We find this sentence in section seven of article one of the tax law: "Property held by any officer of a religious denomination shall be entitled to the same exemptions, subject to the same conditions and exceptions, as property held by a religious corporation." There is practically no limit to the amount of property a church officer may hold free from taxation, provided the earnings from that property are applied to church benefits. Unrestrained by constitutional provision, the Legislature has broadened the scope of the exemption clause until, quoting from the same section we find that: "The real property of a corporation or association organized exclusively for the moral or mental improvement of men or women, or for religious, bible, tract, charitable, benevolent, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more such purposes, and the personal property, of such corporations, shall be exempt from taxation."

Is not that sufficiently elastic to meet practically every condition? Now, laying aside entirely the question of equality and justice, personal pride and patriotism should prompt refusal on the part of many institutions, especially churches and fraternal organizations, to accept immunity from the tax burden. All these institutions profess the greatest loyalty to country, and yet they appear to overlook the fact that the truest loyalty, the purest patriotism, rests in generous support of the government. Our institutions that can afford to own property worth thousands, even millions of dollars, can well afford to contribute to the support of the government which protects it and makes its existence possible.

I have spoken of fraternal organizations and societies which take advantage of the law's elasticity to creep under its shelter for the purpose of enjoying immunity from taxation. Can you conceive of an organization, made up of our most representative and wealthy citizens, taking advantages of opportunity granted by too lax laws, to shift a portion of their legitimate tax burden to the shoulders of others? But right here in Albany, under a special construction of its charter, the Benevolent and Protective Order of Elks is exempt to the amount of \$175,000, which must be made up by others, including the widow and the small home owner. Consistency is a jewel. Where is the benevolence or the protection of an act which shifts the burden of taxation to shoulders far less able to sustain it? For fear that it might be thought that I have singled out one particular fraternity as an example I will say I have the privilege and the honor to belong to the oldest and

greatest fraternal organization in the world. But I repudiate the idea that the officers of that organization should take advantage of the exemption clause of the tax law. Fraternity is a luxury and should pay duty. I much prefer to pay my share of the amount necessary to care for the indigent members of our order if there be such, than to pose as a patriot and shirk my duty as a loyal citizen. I can say to the credit of the chief executive officer of that association in this State, that he has expressed to me his approval of the idea of the abolition of all tax exemptions. I may add that my respect and esteem for Judge Freifelt was not lessened by that admission.

Conviction is coming to the church people that their long-established attitude toward taxation is inconsistent, unchristian and unjust. Some of the churches are declining to take advantage of the exemption law, and are paying their assessment as every property-owning corporation should. It is a worthy example, and should have its effect. But selfishness is their rule, and until wise and consistent law-makers put the seal of their disapproval upon this most unequal and dangerous class legislation and privilege the great evil will continue to grow.

Members of the Committee on Taxation, and other delegates, including its Chairman, have expressed to me the conviction that conditions warrant the abolition of practically all the present exemptions, and that they personally favor such action, but are prevented from taking a decided stand for the adoption of such an amendment by the belief that the people are not yet ready to accept such revolutionary legislation. They are right when they characterize it as revolutionary. But what really great reforms have come except through revolutionary action? But I believe they have a misconception of true sentiment when they say that the people are not yet ready to approve such an amendment as this I present, at the polls. At least they should have an opportunity, and this is what my large number of correspondents have urged, a chance to express their opinion on this subject with the ballot. Ask the people you meet on the street what they think of the abolition of tax exemptions, and the great majority will tell you they favor it.

A word regarding the moral effect of tax exemptions. I believe that were all institutions taxed, the result would be a more economical administration of the institutions themselves and less careless expenditure of the public funds. Free from the burden of taxation, the managements of the numerous institutions of the State are less observant of the financial policy of the lawmakers and public officials. Themselves unaffected by the extravagance of administrations, they enter no protest against the reckless dissipation of public moneys contributed by the less favored classes. Exemptions are, therefore, an encouragement to extravagance, to

Mr. A. E. Smith — The answer to that is that every teacher that is added to the working force of New York naturally will require a larger appropriation by the Legislature, but this proportion between them will never disappear.

Mr. Blauvelt — Is not that the fault of the city of New York?

Mr. A. E. Smith — No. Absolutely no. Absolutely no. If the gentleman will wait until I finish this statement — the difference in the teachers is only a small part of this thing. Wait until I give you the total and show you what the State is giving upstate to 726,000 children, and what it gives to the city of New York, with over 40,000 children more. Now, the gentleman from Rockland knows very well the reason; he knows the reason just as well as I do. The upstate communities do not contribute as much as we do. They get their supervision for nothing. We pay for ours. We maintain our normal schools and we pay 75 per cent. of the cost of theirs. You know this is a kind of winding-up affair. The further you go into it, you find we are tied up into this whole thing. We are paying about twice for everything. Now, salaries of superintendents.

This is pursuant to statute — \$186,183.87. Every dollar of that is spent outside Greater New York. We maintain our large force of superintendents entirely at our own expense. This is for upstate.

Now, the traveling expenses of these superintendents was \$39,199. Now, the expense for normal schools, of which the city of New York receives nothing, was \$701,507. The total expense for district superintendents of normal schools, of which New York receives not one penny, was \$922,890. Now, add that to the difference between the teachers' salaries, and New York is getting the worst of it. The worst of it, that is the way to put it, by actually \$4,147,230, with 40,000 more children to educate.

Mr. Blauvelt — Would not the adoption of these two amendments be in the interest then of the city of New York?

Mr. A. E. Smith — They would, with the word "present" — if you get me, I am against the "present supervision and control," because I agree with Mr. Marshall, if you put the word "present" in there, we will never be able to repeal the law which provides for the superintendence and that gives them their traveling expenses and we will never be able to saddle upon the whole State, where it ought to be, the cost of the normal schools or put it on the counties where the normal schools are.

Mr. Wickersham — Would not the substitute which I moved a moment ago avoid the very objections to which the gentleman has referred?

Mr. A. E. Smith — Yes, No. 749, if not amended, will be all right. The difference between 525 and 749, as I see it, is just in what you just said, and in what Mr. Marshall said, that it is a little more,— that it has got a little more punch in it (laughter), so to say. It sounds a little better. There are not so many words that you can play upon. You get rid of our friend “derogation,” probably, and several more like it.

Mr. Wagner — Perhaps surrender would be better.

Mr. A. E. Smith — Well, “surrender” sounds better, for we all know what that means.

So far as that is concerned, I think 525 is all right, but the point I make is that whatever the Convention finally adopts, it must avoid anything in language, or that could be spelled out of the language which would continue the condition which gives New York so much the worst of it, with all due respect to the fraternal spirit.

Mr. Brackett — I am so weary, I am getting wearier every minute. If I should ever reach within seeing distance of the “Pearly Gates,” within whose enfolding arms, for the peace of which I hope we all hope and pray, I expect as I am making my plea to St. Peter to permit me to come in to hear wheezing up the hill behind me the gentleman from New York with his complaint that there are more Republicans getting in than there are Democrats; and I am very sure that he will find that the reason for it is that there is some inequity somewhere in the Constitution, or in statute, that girds around and binds and trusses too tight the city of New York in its relation to the great Empire State.

Now, Mr. Chairman, it has been with the greatest difficulty that I have restrained myself from hitting my brother Smith on the wrist politically.

I am trying to bear deference to the President of the Convention; I am trying to follow our leader, the gentleman from New York, when they say that there must not be any injection of politics into this Convention under any circumstances; but when every time any possible question comes up, and it doesn't make any difference what, the gentleman from New York has to rise and to present to the consideration of the Convention the sore toe of the city of New York, it comes with the greatest difficulty that I can follow my leaders as indicated.

I suspect, Mr. Chairman, if there should be a nostrum introduced in this Convention for the cure of hard and soft corns, that the gentleman from New York, Mr. Smith, would at once be on his feet insisting that the Legislature of the State of New York, dominated by the countryman, had imposed upon the city of New York the largest and juiciest selection of hard and soft

corns New York ever had, and that New York must have more than half of the remedy.

Now, with all due respect to the gentleman, from New York and his views on many questions, I wish to say that I thought that education was away beyond any possibility of the injection of politics of any kind. I did not believe it was possible for even the politically tortuous mind of the gentleman from New York, Mr. Smith, to be able to inject into this question the woes and the troubles of the city of New York.

Mr. A. E. Smith — I simply wanted to show the gentleman, how far this question of discrimination against New York has been carried, even under the Education Law.

Mr. Brackett — I know Mr. Chairman, and do you know that, as I reflect on it, the tears as large as walnuts are running down my cheeks, when I think how poor New York has been kept and made by the Legislature of the State of New York.

Why, Mr. Chairman, if it had not been for the countrymen who are members of the Legislature of the State, I suppose that New York city would have been infinitely richer than now, because the poor countrymen have been having a few dollars more than an exact mathematical proportion, wherewith to send their children through the snowdrifts for miles so they can have their education.

Now, the gentleman from New York must get it out of his system that there is anybody trying to do anything wrong to the city of New York, and he wants to get it into his system, and he must get it into his system, that the fraternal spirit still exists, and instead of whimperings and instead of faultfinding, instead of all the methods which he adopts to inject his New York and his Democratic politics into this Convention, hating his sin, we still love the sinner, and are going to continue the fraternal spirit in about the same old way.

Mr. C. A. Webber — As one interested in the parochial schools, I take objection to the substitution that is now proposed. The Committee, after many days of wrangling over this very proposition, and in order to conciliate the different interests that found fault with the substitute that is now proposed, as having some possible tendency to invite interference with the parochial schools, agreed upon the amendment as proposed in general orders, and I think at this late hour it is a most undesirable thing to make a change in that amendment. It cannot and will not be satisfactory. We have had a large number of delegates to this Convention discuss the original amendment offered in general orders and every one of them has stated, and it is a matter of

record, that there is absolutely no intention on the part of this Convention to interfere by this amendment with private schools.

We are thoroughly satisfied with that, because we understand the rule of constitutional construction to be, that the courts may look to the Records of this Convention to find out what we mean; and we have fully felt that the courts are going to take our meaning and our declarations rather than those of any body outside of the Convention, whoever they may be; and having gone on record unanimously that there is no intention to interfere with private schools by this amendment, and having discussed up to this moment the proposition as worded in the amendment presented in general orders, I do not think now that we ought to make any change, or that we ought to go back to the language that excites a suspicion upon our part, because of the change in language. And to do that now might be an indication, and might give room for argument, that this Convention intended to go back to the original proposition and open up the possibility of interference with private schools.

Mr. Mereness — I move that the Committee rise and report favorably to the Convention upon Mr. Wickersham's substitute for the proposition reported by the Committee on Education.

Mr. Wickersham — I presume the first motion is upon the substitute before the motion to rise is in order, and if all those delegates who desire to speak on it have finished I shall call for a vote on my substitute.

Mr. D. Nicoll — Mr. Chairman, will you tell me what has become of Mr. E. N. Smith's substitute?

Mr. Wickersham — It was an amendment, not a substitute. This, Mr. Nicoll, is a proposed substitute which, of course, takes precedence over the various amendments to the original proposal which were moved the last time we were here and the question should properly, Mr. Chairman, be on my substitute.

The Chairman — The question will be on the motion of Mr. Wickersham to substitute —

Mr. J. G. Saxe — Mr. Chairman, before that motion is put, I want to simplify the issue by saying that I understand that after I offered my Proposed Amendment the Committee on Education met again and thought they meant exactly the same thing and preferred their own amendment. In view of that action by the Committee, and what has been said by Mr. Marshall and Mr. A. E. Smith, I withdraw my proposed amendment.

The Chairman — Which one was that?

Mr. J. G. Saxe — Those are the first amendments which were moved and the only ones which are printed on the General Orders calendar, and they are withdrawn.

The Chairman — One moment until I get the situation. There was a motion made by Mr. E. N. Smith to substitute that has not been acted upon before Mr. Wickersham's motion was made. Is that urged or withdrawn, Mr. Smith?

Mr. Westwood — Mr. Smith is not here. He is out in the Committee room.

Mr. Deyo — Mr. Chairman, by Mr. Smith's own motion, that amendment was laid on the table.

Mr. Griffin — Mr. Chairman, a point of order. The amendment of Mr. Smith was offered to General Order No. 34.

Mr. Wickersham — Mr. Chairman, I rise to a point of order. The motion is not upon the amendment; the motion is upon the substitute, which, of course, precedes discussion upon amendments. If the substitute is not adopted then the question will recur upon the amendments. I call for a vote upon the substitute.

The Chairman — The question will be on the substitute offered by Mr. Wickersham —

Mr. Griffin — Mr. Chairman, I ask that the substitute offered by Mr. Wickersham be read.

The Secretary — By Mr. Wickersham: Strike out the italicized matter in lines 3, 4, 5 and 6 and insert: Section 1. "The supervision and control of the education of the children of this State shall remain the duty and function of the State and shall never be surrendered."

Mr. D. Nicoll — I have listened with very great attention to this debate, and now as we are about to vote I find myself somewhat perplexed as to what course we ought to take. I understand that the proposed substitute of the gentleman from New York is suggested in place of the one reported by the Committee on Education, and it is urged for adoption because it is suggested that this language is more perfect than that reported by the Committee. But, whether you consider this proposed substitute, or that suggested by the Committee, the question arises, why do we put this in the Constitution at all. There is no use of amending the Constitution unless there is some very valid reason for it. My idea is that it is the business of this Convention in revising the Constitution to cut out those things in it which the committees find to be objectionable and to put in it those things which meet existing abuses. Is there any abuse or evil here that we are about to redress by the adoption of this amendment? If so, what is it? I understand the distinguished chairman of the Committee to say in his opening address that this amendment merely constitutionalizes the *status quo* and so does the substitute proposed by the gentleman from New York except that its language is more eloquent and impressive. So the question before the Committee now is, are

we to constitutionalize the *status quo*? Is that the business of the Convention? If so, every committee can find some *status quo* to constitutionalize. That practically means that the committee looking over the whole subject, not finding anything in the Constitution very objectionable and finding no evils to be redressed, says, "Well, we have got to do something to justify our existence and the length of our sessions and therefore we will constitutionalize the *status quo*." Well, I am bound to say that that does not impress me as any reason why a body of grave and reverend seniors like ourselves should undertake to amend the Constitution in this respect.

Mr. Deyo — I was personally in doubt as to what my vote should be upon this proposition. I was in the same frame of mind as Mr. Delegate Nicoll, until I had heard the argument of Delegate A. E. Smith, upon the proposition before us, and if there is any logic in the argument of Delegate Smith, then there is a reason why this Convention should, so far as it is able to do so, constitutionalize the *status quo*. If there is any point to the argument made by Delegate Smith of New York, it is to the effect that New York city is not getting a fair deal in the matter of education. The purpose, evidently, underlying his remarks, and that which gave rise to it and point to it, was that possibly at some time in the future the Legislature of this State might proceed on a different theory; it might proceed on the theory that education is no longer a State function but a local function.

Delegate Smith of New York holds up to us as a possible policy of the State hereafter that moneys which are raised in New York city for educational purposes shall be spent in New York city for educational purposes instead of having the moneys which are raised by taxation on the property at large of the State used for educational purposes in the State of New York. In other words, if the argument of Delegate Smith of New York has any point, it is to urge a localization of the educational functions of the State, leaving to New York city the care and control of its problems of education and leaving to the other localities of the State the control of the educational functions in those localities.

Mr. A. E. Smith — I want to save him from using up any more of his time or the time of the Convention by stating that he entirely misunderstands the point of my argument. I am for the State control of education, unquestionably. The point that I tried to make was that in that State control a section of the State has been discriminated against in that superintendents of the schools in the upper part of the State are paid for by moneys contributed by all of the people of the State, while the superintendents in New York are, by statute, paid with the moneys of the

people of New York city alone. It is not that I have in mind a separation, it is not that I would want to subscribe for a moment to the theory that the people of the city of New York are unwilling to put in their fair share for the education of the children of all the State. That is not the point.

Mr. Deyo — Mr. Chairman, I don't think the trouble is mine that I misunderstood the main point of his argument. But, taking the explanation or apology, as the delegate may see fit to term it, his figures were based upon a wrong assumption, to begin with.

Mr. A. E. Smith — I would like to inform my friend that I was not arguing against the form of these bills. I was arguing against the amendment by the gentleman from New York, Mr. Saxe, who proposed to make it read, "the State shall continue its present supervision and control." Now, that is not an apology. It is an explanation.

Mr. Deyo — Mr. Chairman, the statement was also made by Delegate Smith, in the course of his argument, to illustrate the point which he was endeavoring to drive home, that the normal schools of this State are supported for the benefit of the upstate districts and not for the advantage of New York city. Now, everybody about this circle knows that the moneys which are appropriated for the support of normal schools in this State are appropriated for the benefit of all the State; not simply for the upstate districts, but for New York city as well.

Mr. Wagner — Is not the same argument applicable to the normal schools of the city of New York? Are they not for the benefit of the whole State?

Mr. Deyo — Mr. Chairman, the normal schools of the State are open to every person who qualifies from every section of the State. Every Assembly district, whether it is below the Bronx or above the Bronx, is entitled to send a certain number of pupils to the normal schools of this State. In addition to the facilities which are provided for by the State at large in the maintenance of normal schools, New York, Buffalo, Syracuse and other cities which supplement the work of the State normal schools by the maintenance for their own local benefit of normal training classes or normal training schools of their own. That is a matter in which the State has no general interest. They are supported and maintained for the purposes of the locality, and they are properly so supported and maintained.

I want to emphasize the point once more, which I emphasized once before in speaking upon another question that was before the Convention, the pressure of taxation does not rest primarily upon the localities as municipalities. The pressure of taxation rests evenly upon the dollar, wherever that dollar is found, and

because New York city has drawn a circle about itself, and more wealth is found within that circle than is found in any other similarly circumscribed circle in the State, that gives it no right to say that therefore the money raised by taxation on the property within that circle should be spent entirely within that circle. As Delegate Clearwater has just suggested, it may be drawn largely from the country districts; that is true. In view of the arguments that have been made, it seems to me we ought to place this matter in the Constitution where there shall be no possibility hereafter of the statutes being so changed that education can be regarded as primarily a function of the municipality instead of a function of the State. And, therefore, I am in favor of the amendment proposed by Delegate Wickersham.

Mr. Wagner — Can you give us an instance where the Legislature has during the last twenty years passed any legislation in derogation of the supervision and control of education as a State function?

Mr. Deyo — Mr. Chairman, I am not aware of any statute having been placed upon the statute books by the Legislature to lessen the power or the authority of the State in its supervision and control of education, and, so far as I am concerned, I am willing to vote here and now in such a way that it never can do so.

Mr. M. J. O'Brien — Mr. Chairman, I only want to say a word. I am not going to make any address. I am in entire accord with what has been said by Mr. D. Nicoll. I have not heard, and I have listened with great patience, any necessity for any such proposal being placed in the Constitution, but assuming now that it is and the gentleman who has last spoken finds a reason for constitutionalizing this subject, we have this situation — I am speaking now on the importance of our not proceeding with haste. I think every gentleman in this Convention recognizes that this is one of the most important questions that we can deal with, this whole subject of education. The question of this substitute was before the Committee where all the representatives had an opportunity to be heard and where their expressions were given, and as a result of which this proposal, as recommended by the Committee, was presented to this Convention. I do hope that the subject will be deferred, the question of taking a final vote, until the Committee, in the light of this discussion — if they finally conclude that it ought to be again presented, we do not need any very long discussion on it, and we will then all be prepared to vote, but I would not like at this time, in view of the difficulty that I should find in reaching a conclusion as to the course to be taken, to have a vote taken on the substitute now. If it is agreeable to the gentleman who moved it, I would like to have it lie

on the table, or to report progress to the Convention and ask leave to sit again, and then we can take this up. Thus far, I think the subject has been very well presented. We are all indebted to the gentlemen who have given time and attention to it, and we will then have an opportunity to get the benefit of what will be the judgment of the Committee, which will very largely control me. I therefore hope that at least there will be a little time, until tomorrow or the next session of the Convention, during which all of us can have an opportunity of forming our judgments as to the form in which we think this proposal should be placed in the Constitution.

Mr. Wagner — I feel a good deal as Mr. Nicoll does, and also as Judge O'Brien does, about this whole question. I have been studying for several days what was proposed by the word "derogation," and I finally have made up my mind on that, what those who fathered that proposition as being enacted into the Constitution meant or mean by advancing that proposition. But just as soon as my mind is pretty clear upon the meaning of that word, we are now met with a new proposition that we shall use in place of the word "derogation" the word "surrender," and before I vote in favor of either proposition, I want to, firstly, satisfy my mind whether any such provision is needed in the Constitution at all; and, secondly, if needed, what the word "surrender" means.

Now I do not think that we should be — that our conduct in giving a little history of the effect which legislation had upon New York city should be offensive to the delegates of this Convention. I have no idea that Mr. Smith, when he gave these figures, intended to lodge that as a complaint by the citizens of New York against the contribution which they are making for the education of the children of the State, but rather to show that New York city is interested in education quite as much as all the citizens of the rest of the State; and that, without complaint — because they have made no complaint about this — they are making this liberal contribution to the State treasury so that the children throughout the State may be educated, and, in addition, out of their own pockets, are paying for the education of our children in New York city, with practically no State aid, including our normal schools and our colleges. Now, in view of the conduct of the citizens of New York and their attitude toward education, I want to know why it is necessary at this time to make a declaration which in 1894 was found to be unnecessary. Mr. Deyo a moment ago, in answer to my question, said that he could think of no law enacted by the Legislature in twenty years which tended to surrender or was in derogation of the exercise by the State of its supervision and control in matters of education.

In view of all this, what is the point in this new proposal? Why must we now announce in the Constitution that there shall be no legislation in derogation of this power? Why must we now say it shall never be surrendered? Now, if it is intended as a reflection, I protest against it; and if it is unnecessary to put it in there, why put it in? Now, those are the things which are mystifying my mind, and I should like to have a further opportunity to determine for myself just what is meant by this word "surrender," because there are certain features even of questions affecting, perhaps, education, in which I should not want to have the Legislature limited, so that it can never surrender them.

Mr. Schurman — In view of the situation into which this matter has drifted — perhaps I should not say "drifted," but in which we now find ourselves — in connection with this subject, I have desired to submit the matter anew to the Committee on Education. The Convention is now confronted with an alternative which the Committee, since it worked out this final formulation of this Proposed Amendment, has not seriously considered, and if the Convention would report progress, I should ask the Committee to meet immediately after the adjournment of this session, and I could perhaps report to you this afternoon the decision of the Committee in relation to the alternatives now before the Convention. I earnestly hope, Mr. Chairman and gentlemen, that the opportunity may be given to us.

Mr. Wickersham — Mr. Chairman, in view of the statement made by the Chairman of the Committee on Education, I move that further discussion of this measure be postponed until the afternoon session; that the Committee do now arise, report progress and ask leave to sit again upon this measure this afternoon.

Mr. Brackett — May I make this suggestion or, rather, announcement to the members of the Convention? In view of the requests that have been made, I am not going to make any objection to asking leave to sit again on this proposition at this time, but I do want to remind the members of this Convention that every time that a matter has been discussed as fully as this has, and we have then asked leave to report progress and sit again, it simply means a duplication of the time that is taken for the discussion. Therefore, with the utmost wish on my part to have the most unlimited discussion that is required for the illumination of any question, I hope that it will not be regarded as unfriendly by any delegate here if hereafter objection is made where a matter can be carried to a vote in the session — if objection is made to asking leave to sit again.

The Chairman — The question is on the motion by Mr. Wickersham. All in favor of that motion will signify by saying Aye, contrary minded No. Carried.

The Secretary — No. 752, General Order No. 23, by the Committee on Legislative Powers.

Mr. Wickersham — My motion, Mr. Chairman, was that the Committee rise. It is a quarter of 1 now, and Mr. Latson, who is in charge of the next three or four amendments, is in the Committee on Cities, unable to be here, and he has requested me to ask that his matters be not taken up until he gets back, so that I do not think there is any special reason for going on with general orders until the afternoon session. I therefore move that the Committee do now arise and ask leave to sit again.

The Chairman — Your first proposition, the Chair assumed, related to the pending proposition. It is moved now that the Committee rise.

Mr. Wickersham — That the Committee do now arise.

The Chairman — All in favor of the motion by Mr. Wickersham will signify by saying Aye, contrary minded No. Carried. (The President resumes the Chair.)

The President — The Convention will come to order.

Mr. Brenner — Mr. President, the Committee reports that they have risen, reported progress and ask permission to sit again.

The Secretary — The Committee of the Whole, having had under consideration Proposed Amendment No. 745, Introductory No. 698, by the Committee on Education, reports progress thereon and asks leave to sit again.

The President — All in favor of granting leave for the Committee to sit again will say Aye, contrary No. The motion is agreed to and the leave is granted.

Mr. Wickersham — Mr. President, I move the Convention do now recess until 2:30 p. m.

The President — Mr. Wickersham moves that the Convention take a recess until half-past 2 this afternoon. All in favor of that motion will say Aye, contrary No. The Ayes have it and the Convention stands in recess until half-past 2.

Whereupon, at 12:45 p. m., the Convention took a recess until 2:30 p. m.

AFTER RECESS

The President — The Convention will come to order.

Mr. Wickersham — I move that the Convention do now go into the Committee of the Whole and continue the discussion which it was proceeding with this morning when the Committee rose and reported to the Convention.

The President — It is moved that the Convention go into the Committee of the Whole for consideration of the calendar. All in favor say Aye, contrary No. The motion is agreed to.

Mr. Brenner will take the Chair.

(Mr. Brenner takes the Chair.)

The Chairman — The Convention is now in the Committee of the Whole. The Clerk will read the calendar.

Mr. Wickersham — I move that the Committee of the Whole resume the consideration of the number which was under discussion when the Committee rose.

The Chairman — You have heard the motion by Mr. Wickersham. All in favor signify by saying Aye, contrary minded No. The motion is carried.

Mr. Schurman — Mr. Chairman, the Committee on Education has been in session and has carefully considered the proposal which was made or suggested in Committee of the Whole this morning relative to the substitution for the Committee's Proposed Amendment of another amendment which has been on our files, and the Committee with fifteen members of the seventeen being present, unanimously voted to adhere to its own Proposed Constitutional Amendment.

You will remember, sir, that in the very able and instructive speeches to which we listened from Senator Blauvelt and afterward from Mr. Marshall this morning, they agreed entirely with the report of the Committee. They were satisfied with it. I am glad at the very outset to call that fact to the attention of the Committee.

The question of home rule has been mentioned more than once in the Convention, and it has been considered in connection with this Proposed Constitutional Amendment. We must, I think, frankly recognize that, considering the practice of this State and the line of judicial decisions, we are perfectly right in saying that in respect to education, at any rate, there must be an exception to the home rule program. Whatever else the State reserves to itself, whatever functions it shall keep unimpaired in its own hands, education will and must come first.

Some reference was made this morning in remarks by various speakers to the relation of this Proposed Constitutional Amendment submitted by the Committee on Education, to private and parochial schools. I think perhaps that question has been sufficiently answered by the speeches to which you have listened, especially the speeches made by Mr. Kirby and Mr. C. A. Weber, but I desire, if I may be allowed, to supplement in a few words the very impressive and convincing statements which they have already made. I want once more to call attention to the fact that the Committee on Education represents in its membership all the fundamental faiths of the country. I want to say that the bearings of this and of every other amendment proposed on private and parochial schools were carefully considered and we reached, in the amendment which the Committee presents to the Convention, a proposal unanimously, cordially indorsed by every member of that Committee. And, as I happen to know, some of the members of the Committee had opportunities of consulting their friends who are especially interested in private institutions regarding the possible bearings of this Proposed Constitutional Amendment upon those institutions.

I think, therefore, Mr. Chairman, that we can say there is absolutely no doubt about the attitude of the Committee, and after listening to the able speech of Mr. Marshall, I think every one must be convinced there can be no doubt about the bearing of the language used by the Committee in expressing their views.

There remains the question to which I proposed — or before I come to that I want to make another statement regarding the relation of this Proposed Constitutional Amendment to private and parochial schools.

It has been suggested that there was something behind this proposal. I think that suggestion is too absurd to need refutation. But if there is any lingering, any doubt whatever, either here or outside this hall, I want to repeat most emphatically that all there is in this Proposed Amendment is on the face of it.

Furthermore, I desire to say on behalf of the Committee, speaking for it, and for it unanimously, that we have not intended to make any change in the nature or extent of the supervision and control which the State now exercises over private and parochial schools. On the contrary our object in the consideration of every amendment that has come before us in which the issue was involved was to see to it that the existing relation between the State and those institutions should remain absolutely unchanged.

Mr. Chairman, there remains the other issue to which Mr. D. Nicoll very forcibly called our attention towards the close of the session this morning. I understand Mr. Nicoll's position — not

perhaps his ultimate position, but the position which he voiced in making that inquiry — to be substantially this: Assuming that everything the Committee and its numerous friends on the floor of the House have said in favor of this bill, is true, what is the need of putting it into the Constitution? Why constitutionalize the *status quo*? Isn't it enough in revising the Constitution to incorporate only such amendments as meet some evil, as redress some evil which has developed since the last Constitutional Convention met? I find myself, Mr. Chairman, entirely in sympathy with the views and predilections which inspired that question. It is a fair question and I think we must answer it to the satisfaction of the Convention, and I hope and believe we shall be able to do so. I call attention, in the first place, to the fact that in 1894 the Constitutional Convention did insert new articles in the then existing Constitution.

From the point of view at which we now find ourselves, none of those changes were more important or significant than the article on education, providing for the first time in the history of the State for a system of free, common schools. That article was inserted because the policy had been established and because in other States of the Union similar constitutional recognition had been given to such a policy.

We find ourselves to-day in a similar position. A certain policy has been established in the State in regard to the control and supervision of education.

Education, Mr. Chairman, is the most important of all the activities of the State, as I think every gentleman on this floor will concede. It has to do with the training of the rising generation and their preparation both for citizenship and for living worthy lives as individuals.

If you could make an exception for the special incorporation of a clause or article in the Constitution referring to any one activity whatever with which the State is concerned, that exception would in the first instance be made on behalf of education.

But, Mr. Chairman, it isn't merely that this is a transcendent function of the State, it is not merely on that ground that the Committee on Education asks to have it recognized in the Constitution. We are asking not only for its recognition; we are asking for its protection. Now, Sir, although the policy which we have prescribed is the established policy of the State, it cannot be said that it is accepted by everybody. It must be admitted there are certain exceptions. We had gentlemen come before the Committee on Education recommending, in substance, that this policy be adopted and that, substantially, the schools be turned over to the municipalities; that education be treated substantially like

street-cleaning, as a municipal function. That contravenes the established policy of the State as it has been established in practice and conferred by judicial interpretation; and that, in the opinion of the Committee on Education, would be to imperil the greatest interest which the State of New York is charged with. We ask, therefore, that this article be inserted in the Constitution, not only in recognition of this transcendent function, this all-important policy, but that it be inserted for the due protection of the educational interests of the State.

I referred to hearings before the Committee on Education. But, Mr. Chairman, I am not confined merely to hearings before one committee of this Convention for evidence. There has been in the last two years a great growth of the sentiment in favor of home rule. I, for one, favor that sentiment, and hope the Committee on Cities will be able to report to us a Proposed Constitutional Amendment which the Convention can adopt. But, Mr. Chairman, that idea, like any other idea, developing and strengthening itself in a community, inevitably leads to excesses, and one of the excesses to which it leads is, more particularly on the part of the large number of men who come to this State from foreign countries and are unacquainted with our institutions, that even education should be delegated by the State to the municipal authorities — the care, supervision and control of it. Now, in evidence of that fact, year after year bills are presented to the Legislature for the enactment of such a policy.

I hold in my hand copy of a bill presented March 3, 1914, in the Senate, No. 923 — An act to provide a new charter for the city of Mount Vernon.

The point I am about to make is that if such a clause as the Committee on Education is recommending had been inserted in the Constitution where the people of the State might read it, such a proposal as the bill I hold in my hand would in all probability never have been presented to the Legislature.

Here is a bill, Sir, which proposes to make the mayor the board of education of the city. Here is a bill which gives him power to employ and dismiss teachers and fix their salaries. He may employ and dismiss a clerk, and so on, for the administration of the business of the school districts and fix their compensation. He may make regulations for its government, and for the government of its employees. The mayor, as the sole trustee, shall have the power, subject to the provisions of this act, to purchase, take, lease and hold all kinds of real or personal estate in trust for the school district, for the support and maintenance of public schools, or for any of the purposes of education in said city.

Subject to the provisions of this act, the mayor, as sole trustee, shall have the power to do each of these. One, to establish and

organize in said city such and so many other schools, including night schools, as he shall deem requisite and needed; to establish and maintain, whenever it is deemed expedient so to do, one or more high schools, trade schools and secondary schools; to purchase, construct, furnish or hire, sell or dispose of, schoolhouses, or sites, and alter and improve schoolhouses and appurtenances, as he may deem advisable; to license all teachers employed in the schools of the city in the same manner and with like effect in said city as the school commissioners in counties."

Mr. Wagner — Would you say that that proposed law was in derogation of the principle that education is a State function?

Mr. Schurman — I would say that that proposed law contemplates the transfer to the political authorities of a municipality the supervision and control of education, which is by established policy vested in the State independent of the municipalities, and that proposals of that nature would not in all probability come before the Legislature if the principle which the Committee on Education is contending for were firmly established and written into the Constitution.

Mr. Wagner — I don't think I made myself clear. Would you call that proposed law constitutional, as being in contravention to the proposal you are now advocating, or is that merely a delegation by the State of certain of its functions to a locality and would therefore still be enacted under the proposed provision?

Mr. Schurman — That is a legal question and I can only express my own surmise — I don't think I would go beyond that — that it would be in derogation of the powers of the State.

Mr. Griffin — Does not the gentleman know there is no power on earth, either in the Constitution or out of it, to prevent a foolish legislator from presenting to either House a foolish bill?

Mr. Schurman — Bills of this sort, Mr. Chairman, I will say indicate a state of the public mind which needs correction, which needs rectifying, and we think that this bill would go a long way toward the accomplishment of such a result.

The great argument, however, in favor of the incorporation of this Proposed Amendment into the Constitution is the importance of the subject at stake, and the need of protecting it. What is a constitution for, a written constitution, but to recognize such supreme and transcendent policies? Are not we now engaged in considering the advisability of incorporating into the Constitution protection for the Public Service Commission? One of our committees has been giving a great deal of time to the question and the men all agree with me as to the desirability of such protection. But it serves as an excellent illustration of the point I

desire to make, namely, that the function of government recognized by us as of supreme importance is entitled to constitutional protection in a country in which we have written constitutions.

Now, Mr. Chairman, I do not desire to take up more of the time of this Convention. This subject has been exhaustively threshed out in different cities. I think the time has come for a vote, and I hope the Convention will now vote upon the question.

Mr. Wagner — Mr. Chairman, just one more question, if I may, and I am through. The power which it was attempted to give to the mayor of Mount Vernon, by the act which you have just cited, is the power now enjoyed by the board of education in the city of New York, so that under your theory, if after this provision were adopted a law should be passed giving the board of education of the city of New York the powers which they now enjoy, you would say that that power was in derogation of education as a State function, and therefore was unconstitutional?

Mr. Schurman — I should think, Mr. Chairman, that the answer to that question would depend upon the disposition which this Convention makes of the companion bill submitted by the Committee on Education, namely, the bill having to do with boards of education and their functions.

Mr. Wagner — No, Mr. Chairman, if I may interrupt, I beg to differ with you. It may be my fault that I do not make myself clear. I do not think that depends upon any constitutional provision. You gave as an illustration of a proposed act which you considered — that is, giving certain powers to the mayor of Mount Vernon, and your contention was that that was in derogation of education as a State function. Now, I say that the powers which you complained of there were powers which are now exercised by the board of education of the city of New York.

Mr. Schurman — I doubt that, Mr. Chairman. I think they are quite different, and the point I was making was that those who were behind that bill conceived of education as a municipal function and proposed therefore to make the political head of their municipality the sole board of trustees and to clothe him with all the powers that boards of education ordinarily have.

Mr. A. E. Smith — Will Senator Wagner yield to a question? I want to get myself as clear as I can on it. Has the board of education in New York city at the present time the right to grant licenses to teachers without any interference from the State Educational Department?

Mr. Wagner — As I understand it — and I may be mistaken; I am not clear upon these questions. I am trying to get information. As I understand it, the State has a supervisory power over the standards to be fixed as qualifications for school teachers, but

the examination papers are absolutely made up by the board of education in New York. The examinations are held under the supervision of the board of education of New York, as I understand it. The papers are examined and the marks determined by employees of the board of education in New York and the licenses, as I understand, are issued by the board of education of the city of New York.

Mr. A. E. Smith — Do you think that that provision of the proposed Mount Vernon charter which gave to the mayor the right to issue licenses would have to be read with any other law, or would he have the power to give them out under any rules and regulations that he might, himself, establish, or by virtue of any standards that he might, himself, set up?

Mr. Wagner — Well, in the first place, I think it was an unfortunate proposal. I would be opposed to giving the mayor all that power, but what I contend is this, and what I am trying to find out is this, whether derogation of power by this provision of this Constitution will prohibit the delegation of power.

That is the point. Now, it seems to me that that provision in the Mount Vernon charter in simply delegating to a local authority certain of the State functions is not surrendering them. Now, if every delegation is in derogation, why we are going to have a very unfortunate situation in the city of New York.

Mr. Marshall — A delegation is not in derogation. It is creating an agency, that is all.

Mr. Wagner — Is not this creating an agency?

Mr. Marshall — This goes much farther. This uses these extraordinary words, "To have to the exclusion of all boards and officers, except the Regents of the University, the entire supervision and management of the public schools of the city." It excludes everybody except the Board of Regents.

Mr. Wagner — Well, in the exercise of that State function the Board of Regents is the supervisor for the State.

Mr. Marshall — It singles out a single board of the State authorities. It excepts the Board of Regents but leaving out of consideration altogether the State at large as a State. It merely singled out one of the bodies of the State which deals with education and which has not exclusive jurisdiction over the subject.

Mr. Wagner — Well, of course, the act itself could be amended the following year.

Mr. Marshall — As I understand the point which was made by President Schurman simply was that there was a danger, unless there were in the Constitution language such as has been proposed indicating it to be the purpose of the State — of this Convention to make of education a State function, there might be

possibly enacted measures of which this is an example. And some of which might go even farther than that, and hence the desirability of laying down a general rule. That is all I understand that President Schurman had in mind.

Mr. Schurman — That is perfectly correct.

Mr. Wagner — I am not at all in sympathy, of course, with that proposal from Mount Vernon. Would you consider giving the city of New York through legislative enactment, if this provision were in effect, complete control over the expenditures incurred by the board of education — would you consider that an act in derogation of education as a State function, and, therefore, in contravention of this provision?

Mr. Marshall — I have no doubt it would be entirely constitutional to give to the city of New York the power to deal generally with the expenditure of funds and the raising of funds for the purpose of meeting this State need of education. If the law were so enacted as practically to amount to a starving of the schools and absolutely neglecting, as for instance, to make a provision so inadequate that a large proportion of the children of the city of New York would have no opportunity to have schooling, then I would consider it to be in violation of the principle that the State has to exercise the duty and function of giving instruction, but beyond that there is nothing in this provision which prohibits the giving of authority to the city as the agent of the State to carry out this State purpose, just as in other branches of our law there is a designation of agencies, local in their operation, to perform a State function. For instance, the city of New York has to pay the expense of maintaining the courts within that jurisdiction — certain courts. That certainly is a State function.

Mr. Griffin — Under the terrible example quoted by Mr. Schurman, of a bill propoing to vest in the mayor of Mount Vernon plenary powers as to education, and to control the entire school system of that city, I want to ask Mr. Marshall, whether, in his opinion, if that bill were presented and the present provision which we are discussing were in the Constitution — would he consider that such a bill as that, that terrible example, as in derogation of constitutional powers vested in the State?

Mr. Marshall — I have already answered that question. I have not had an opportunity to see this bill until a moment ago. I can see that there are certain features which would be of very questionable constitutionality, in view of the fact that it apparently, by expressed terms, excludes the State from exercising its functions. They say so in so many words, except under certain limitations set forth in the Constitution, that the State should not

exercise its functions. I am not prepared to say to what extent that bill is unconstitutional, or would be unconstitutional except that I do say that it is a very strong evidence that under such legislation we would be on the very verge of unconstitutionality, to say the least, and it, therefore, is strong evidence of the necessity of a declaration of State policy which should be maintained in respect to matters of this kind. I think it is asking too much of anybody offhand to determine whether or not a law is unconstitutional or otherwise. The important question is, is this a proper principle to be put into the Constitution, and if it is there, when the occasion arises, it will be very easy to determine then whether or not a bill is or is not within the purview of that constitutional provision.

Mr. Griffin — That is just the point, and I would like to ask the gentleman, who will determine whether it is in derogation of State authority or not?

Mr. Marshall — In the first place, we would have the Legislature sworn to observe the Constitution, which would be very careful to avoid a violation of the Constitution. Then we would have the Governor who would also determine that question when called upon to approve or disapprove of the bill; and then, finally, we would have the courts who would vindicate the constitutionality of this statute, as they have in the past.

Mr. Griffin — And then, Mr. Chairman, I want to ask the gentleman, after he has got all through with that, does he consider that any constitutional provision which opens the door to such a rigamarole as that is good constitutional craftsmanship.

Mr. Marshall — I don't know what rigamarole you are referring to, whether it is this bill of Mount Vernon, or something which I have not seen, and cannot, therefore, pass upon.

Mr. Griffin — The rule of grammar that the last thing spoken alludes to its antecedent answers that.

Mr. Wickersham — Mr. Chairman, I withdraw the amendment which I moved before the adjournment. While I prefer the language of that amendment to the language of the report, in view of the report which Chairman Schurman has made, showing that Committee has given it very careful consideration, I do not mean to urge my impression of the moment against their mature judgment.

The Chairman — The question now is on the amendment proposed by Mr. E. N. Smith. All in favor of its adoption will signify by saying Aye, contrary minded No. It seems to be and is lost.

The question now is on the adoption of the proposition.

The Chairman — All in favor of its adoption will signify by saying Aye, contrary minded No. It seems to be carried and is carried.

Proceed with the calendar.

No. 756, General Order No. 28, by the Committee on Taxation.

Mr. M. Saxe — Mr. Chairman, I make the usual motion with respect to that article.

Mr. Wickersham — Mr. Chairman, I should like to supplement the Proposed Amendment in the first section of this measure, pursuant to the suggestion which I made when the matter was under discussion a few days ago, to amend Section 1 of the article by adding after the word "repeal" in line 8, the words "but without prejudice to any contract of exemption heretofore made under authority of such laws." That is for the purpose, Mr. Chairman, of making it perfectly clear that it is not intended by the authorization to repeal a statute authorizing exemptions, any contract of exemption which may have been made under authority of these laws before they are repealed. I understood the gentleman having the measure in charge to agree that that was what he intended by the measure, and that he would welcome an amendment which would make that perfectly clear.

Mr. Olcott — Mr. Chairman, may we have that read again, if you please?

The Chairman — It is not in the possession of the Clerk; therefore he is unable to read it.

Mr. Marshall — Where would it come in?

Mr. Wickersham — Insert in line 8 after the word "repeal," the words "but without prejudice to any contract of exemption heretofore made under authority of such laws."

Mr. Clinton — I do not quite, Mr. Wickersham, get the force of the amendment. If any question came up as to the applicability of that sentence, the first question to be determined would be whether the statute amounted to a contract, would it not?

Mr. Wickersham — Mr. Chairman, I meant that to go a little further than to merely exempt a contract which was beyond any question a binding contract. Following the suggestion which Mr. D. Nicoll made a moment ago when we were under discussion the last time, I think the State should protect its moral as well as its legal obligations and my suggestion goes to the power of repealing the existing statutes and that it should be "without prejudice to any contract of exemption heretofore made under authority of such laws," leaving it to the Legislature to determine then if there were a question of doubt as to whether the contract was an absolutely binding and enforceable one, whether or not it was such a moral one as to be respected by the State.

Mr. Clinton — Well, Mr. Chairman, let me make a suggestion. The word “contract” has a technical and legal meaning, as I understand it. It is not a contract if it is not under proper consideration, or if it be beyond the power of one of the contracting parties to enter into it. Therefore it seems to me that the use of the word “contract” does not accomplish what you wish.

Mr. Wickersham — Well, I think it does.

Mr. Clinton — If the word “agreement” were used —

Mr. Wickersham — A contract may be an obligation, or an agreement, although there may be some question as to enforceability and yet it may be recognized as a moral obligation.

Mr. Clinton — I see what you are seeking to reach, and I am simply trying to aid as a lawyer with my technical, narrow views, carrying out your intent.

Mr. Wickersham — I would be glad to have you suggest another term, Mr. Clinton.

Mr. Clinton — I merely suggest the word “agreement” which does not necessarily involve the idea of a binding, legal contract.

Mr. Wickersham — I will accept the amendment; if “agreement” seems a broader term I will accept that amendment.

Mr. Marshall — I don’t like that phraseology. The phraseology is not so good.

Mr. Wagner — If the idea of this provision, if we are going to use this Constitution in order to ease the apprehensions of some gentlemen who have paid a tax upon secured debts, that no matter what we may say in our fundamental law, those particular individuals are protected forever, and that their exemption is preserved, if that is going to be the attitude of this Convention, I suggest to Delegate Wickersham that he simply take out from this provision the word “heretofore,” without putting in a specific provision, that we save from any apprehension those gentlemen who have brought forth their secured debts and paid the State a tax.

Mr. Wickersham — Well, Mr. Chairman, that would not — I beg your pardon.

Mr. Wagner — Won’t that do it?

Mr. Wickersham — No, Mr. Chairman, I think it would not, because there is a very great difference between repealing a law under which different exemptions are given in consideration of something which the State has deemed adequate, and repealing contracts entered into in good faith in reliance upon the law while it was in force, and it seems to me that we ought not to enact a Constitution which would open the State of New York to the imputation of attempting to violate contracts which it has solemnly entered into. So far as a matter of protection for the future is concerned, I quite agree with those who desire to prevent the State again tying its hands regarding the taxation of property.

Mr. Wagner — Well, may I make a further observation, Mr. Chairman — and I may be wrong about that. If this is a contract, it does not need any constitutional protection, because if we do anything to impair that contract, it would be in contravention of the Federal Constitution. Now, if it is not a contract, why, your proposed amendment to the Constitution will be ineffective. So, in any case, if it is a contract, your proposal is unnecessary because you can't impair it. If it is not a contract, your proposal is ineffective and therefore what is the reason for doing anything?

Mr. Wickersham — For the very reason, as I pointed out when this matter was last under discussion, that we do not want to adopt a Constitution containing a provision which has to go to the Supreme Court of the United States to be stricken down, as an impairment of the obligation of a contract, and I understood the Chairman of the Committee on Taxation, when he brought this measure in and explained it, to say that he had no intention of so framing it as to open it to that imputation, and yet, on its face, I conceive it would be open to that imputation, and therefore, it ought to be made perfectly clear so that the Constitution of the State of New York shall not be open to any possible construction of endeavoring to impair the obligations of contracts solemnly entered into.

Number two. The question has been raised here — I confess I had not thought that it was questionable — the question has been raised here whether or not the Legislature had the power to make an agreement with anybody that, in consideration of certain benefits received, certain property should be exempted from taxation in the future. Nevertheless, the Legislature did it, and the Legislature has collected taxes on, I am told, about one billion dollars' worth of property which would probably never have been collected in any other possible way except under the invitation to the owners of that property to tender it, making a payment and receiving a contract to the effect that that property should be thereafter exempt from all taxation.

Mr. D. Nicoll — Has not the Supreme Court held that it may do that?

Mr. Wickersham — I understand that it has, but I say we ought not to leave it equivocal. If the State had not the actual, technical authority to do that, nevertheless it should be free to the Legislature to recognize the moral obligation, and not attempt to impair it even though it had constitutional authority to do it. Therefore, my suggestion is that in providing for the future, the Legislature should not surrender the power of taxation, and that in the future it should not make any agreements exempting property, and that it might repeal laws entered into in the past for that purpose.

That should be without prejudice to any agreement — using the words of my friend from Erie — without prejudice to any agreement heretofore entered into to that effect.

Mr. Wagner — In other words, Mr. Chairman, you are simply trying to legislate what you conceive to be a moral contract into a legal contract.

Mr. Wickersham — No, quite the contrary. I am seeking not to have legislated into this Constitution an impairment of a moral or legal obligation.

Mr. Wagner — That is going pretty far.

Mr. D. Nicoll — I should think it was of first importance.

Mr. Wagner — We are not dealing with morals here.

Mr. Wickersham — I hope we are.

Mr. Wagner — Not in that sense.

Mr. Nixon — I desire to present the following amendment to the proposed tax article and ask that the Secretary read it.

The Secretary — By Mr. Nixon — Strike out the first section of the tax article reported by the Committee on Taxation and now under discussion, and substitute the following:

Section 1. No tax exemptions shall be granted on any real estate not owned by the Federal, State, county or municipal governments, except that places of worship with the ground on which they stand and the necessary approaches thereto shall be exempt from taxation. The legislature shall enact such statutes as are necessary for the enforcement of the foregoing provisions.

Mr. Nixon — My original amendment, providing for the abolition of all real estate tax exemptions, except upon property owned by the Federal, State or municipal governments, was referred to the Committee on Taxation. Upon the Proposed Amendment two public hearings were held, at which opposition developed only from New York city. That opposition was voiced by attorneys representing the Roman Catholic Church, as stated by Attorney Guthrie, and by the heads of institutions which would be affected by the adoption of the tax-exemption abolition proposition. On the other hand, there appeared for the Proposed Amendment a large number of representative citizens, among them several pastors of churches, who reflected the sentiment of their respective congregations, coming by request of the citizens of their home cities to appeal to the Committee for justice and equity. They were from New York, Schenectady, Troy, Utica, Syracuse, Rochester, Binghamton, Elmira and Buffalo. An active pastor of an Albany church was among them. They came at their own expense, and in performance of what they believed to be a civic duty, to urge upon the members of the Committee favorable action upon the Proposed Amendment, that a great and rapidly expanding abuse of privilege might be corrected. In addition to the

arguments of these patriotic supporters of my proposal, there was filed with the Committee, more than a thousand letters from business and professional men from all sections of the State, urging the Convention to take proper steps to abolish existing exemptions. These letters were never read before the Committee, nor was any action concerning them asked by the committee chairman. On a motion made at an executive session to report my amendment favorably to the Convention, a vote of eleven to four, adverse to the proposal, was had. At a subsequent meeting, the present article regarding taxation, the first section of which my present amendment is intended to replace, was voted out, with the express understanding that the members of the Committee were not bound to support it in the Committee of the Whole, nor in the Convention proper. The public was misled into the belief that the Committee was unanimous with the exception of one vote. In all the mass of correspondence, received from all sections of the State, relative to the subject of exemptions, no opposition to my Proposed Amendment has appeared, and the only suggestion of modification which has been made, is that possibly places of worship, churches and the necessary ground on which they stand, should be allowed to remain in the exempt class. That suggestion has been acted upon in the amendment I now offer.

Mr. Chairman, I have never attempted to take up the time of the Convention by joining in a needless discussion of trivial questions, and I have no intention of doing so. But this is a serious, a vital subject, and deserves close and earnest consideration. It should not be approached with biased mind, but with a dispassionate desire to act with fairness and justice. No matter what may be the final action of the Convention relative to it, the question is educational in its character, and whatever of debate may be induced will be beneficial, as serving to quicken public interest and stimulate investigation of the facts as they exist. When the people come fully to realize how they are being duped by land speculators, in the guise of church and charity sympathizers, there will be a revolt from existing conditions, which nothing short of absolute abolition of tax-exemptions will still.

Mr. Unger — Mr. Nixon, do you believe that bona fide charity organizations and bona fide educational institutions should be taxed?

Mr. Nixon — I see no reason why they should not.

Mr. Unger — Do you not know, Mr. Nixon, that these institutions perform great public functions?

Mr. Nixon — I believe they do.

Mr. Unger — Mr. Nixon, do you believe, then, that these institutions which perform such great public functions should be put to the added burden and the added expense of paying taxes?

Mr. Nixon — There are many institutions, many enterprises, many industries in the State, which perform great public functions which make no request for exemption from the regular burden of taxation. I maintain that the institutions which are supported by the government, which live by favor of the government, should not ask to be relieved of their just proportion of the burden of that taxation.

Mr. Unger — Will you name some of those great public institutions and tell me whether or not they are profit-making?

Mr. Nixon — I have not prepared a list at the present time, but I ask, Mr. Chairman, that I be permitted to proceed with what I have to say, with all deference to the kindness of the gentleman, promising when I am done to answer any questions that I am able to answer.

In considering the present tax laws, as to their relation to the best interests of the people, the dominant principle to be observed should be that of equal rights and equal privilege. Unjust discrimination against one class of citizens for the benefit of another class should not be tolerated by a great and supposedly impartial government. There was a time when common regard for Christian religious sympathy and support counseled the granting of exemptions, as an encouragement for church maintenance. This concession was rather the result of sentiment than of real necessity. While perhaps justified, owing to the financial weakness of the church at that time, the granting of such a concession was a partial infringement of the principle of equal rights, by increasing the tax burden of one class, the nonchurchgoer, to lighten the burden of another class, the churchgoer. This exemption was then, as it is now, a donation to the churches, in which, willingly or unwillingly, the smallest taxpayers, in or out of the church, contributed and does contribute his due proportion.

But this amendment is not directed against church exemptions from taxation, except as those exemptions constitute one factor in the general scheme of tax evasion, or repudiation, which has developed as the result of that first concession. Unhampered by constitutional restraint, Legislatures have time and again granted extensions of the exemption plan, until it now covers a wide and diversified range of beneficiaries, many of them revenue-producing, practically *all* the objects of wealthy philanthropy. On the introduction of my original amendment, the newspapers, or a majority of them, flashed the information to the public that an attack was being made upon the churches, and ever since they have sought to convey that impression. No more misleading statement was ever put in cold type. Neither is there any basis for the suggestion that it is a sectarian measure. It is aimed solely against a general

and serious evil which has developed with increasing rapidity as the years have passed. It is the evil of special privilege, fostered by partisan legislators for political effect, and without regard for the interests of the people at large.

No discrimination is shown in the proposal, in favor of, or against, any denomination or creed. While the church, outside of the building itself, is included in the scope of property it is sought to make taxable, churches are in reality only a small part of the whole, a part which would still be materially reduced, if the property now coming under protection of church exemptions unfairly and illegally, so far as the moral principle is concerned, were deducted. Churches and their institutions in the entire State are exempt to the amount of \$257,023,685, about one-fifth of the total exemptions which should with absolute justice be subject to taxation. In the city of Buffalo, out of a total exemption of \$65,354,280, about \$13,000,000 is church controlled property. This is, in that city, about one-half of the real estate, exclusive of that owned by the Federal, State and municipal governments, which is exempted. With something like \$25,000,000 in assessed valuation outside of Federal, State, county and municipal property, exempt, and with the municipal tax rate at \$26.10 per thousand, as it now is, the Buffalo taxpayers, in addition to their own assessments, are forced to pay \$6,418,735 this year to make up the taxes of their exempt neighbors.

Do the delegates of this Convention believe that was the intent of the framers of the original exemption law? Here in Albany, which, according to the official report of the assessors, has a total real estate exemption of \$58,040,165, there is only \$11,665,015 which would be taxed, if all this property, except that government owned, was forced to pay. Of this amount less than one-half comes under church control.

But we must bear in mind that the assessment of exempt property as published cannot be regarded as its true valuation, for the assessed value of this property does not increase as does the value of taxable property, at least not in the assessment roll.

I have it from an assessor, not in Albany, but nearby, that the assessors pay very little attention to that property classed as exempt. Valuations fixed years ago are allowed to stand unchanged, and for this reason it is safe to assume that the valuations are altogether too low. Otherwise the exemptions would foot up to a much higher figure than at present.

It is the abuse of the exemption law which has brought it into discredit; abuses coming, not from a direct violation of the law, but from an evasion of the intent of the law.

Certain social clubs have their constitutions drawn so adroitly that they are brought under one or another of the exempt clauses.

They become known to the assessors as either scientific, literary, library, patriotic, historical, or moral and mental improvement societies, and this without special act of the Legislature.

Some fraternity may decide that it would reduce its expenses if it could creep under the protection of the exemption law, and it adopts similar tactics.

A trifling alteration of the wording of the constitution is all that is required. Oh it is easy enough if the officers are of a mind to put their tax burden upon the home owner, who in many cases has his heart and hands full to meeting the tax law requirement.

When we consider that fully a billion dollars of assessed property in this State which should, with absolute justice, be taxed, is found in the exempt list, the wonder is that the tax-paying class does not set up such a howl of protest that legislatures will be forced to wipe out the entire exempt list.

Next to the churches, probably the strongest plea for continuing the tax exemptions which are unfair to the home owner will be made by the so-called charitable institutions. Exemptions are granted to this class of institutions to the amount of \$75,691,000, and it is safe to assume that the property of this class is not assessed at anywhere near its proper value.

Now, if charitable institutions, so-called, were true to their names, it would not be so unreasonable to extend to them the charity of tax exemption, but it is a fact which cannot be successfully refuted that these, in some cases, at least, take on the resemblance of real estate associations. Land is bought at low prices and held under the plea that it is ultimately to be used for the purposes of the institution. This is true, in a literal sense, for in many cases the property is sold for purposes entirely separate from the institution at substantial advance in price, the profits going into the institution treasury. But how about the moral sense? How naturally will legitimate real estate dealers, who pay their just taxes, regard this invasion of their rights?

A well-known New York institution for moral and mental improvement (what a handy term) years ago bought a piece of property as a site for the proposed institution, paying for the same \$50,000. And by the way, at this time its founders received from the city of New York the very handy sum of \$50,000, as a donation. Later this property was sold, I am creditably informed, for \$150,000, making a clear profit of \$100,000. Another property, bought by the directors of the institution for a new site, was later sold at an even heavier advance from the purchase price. More recently a further investment in real estate has been made by the same institution in an adjoining county, the purchase including 300 acres, which I am told is valued at \$800 an acre, or \$240,000.

I understand the purchase price was \$125,000, about one-half its present value, and a delegate in this Convention who knows the property, states that the reported valuation is entirely too low. Now let's see. On none of these three properties did the directors of the institution pay tax, though it receives substantial assistance from the city of New York each year and a State appropriation amounting to as high as \$165,000 in a single year. Over this institution the city of New York has had no control, as to salaries or other expenditures by the board of directors, who elect their own successors, and permit a very limited number of the members of the board to manage and direct the entire scope and plan of the institution's administration. And the county in which this institution is now located is forced to see a quarter of a million dollars' worth of its property removed from the tax list, thus increasing the burden of the remaining taxpayers.

Let me go a little further with this subject. From a statement issued by the directors of the institution referred to, we find that in the first year of its existence, as previously stated, it received from the city of New York, for investment purposes, \$50,000, and during its existence, \$110,000 more for the same purpose. In addition, there has been paid to the institution by the city and State, for school and maintenance purposes, the enormous sum of \$5,109,760.30. This amount, of course, came from the pockets of the taxpayers, going to the support of an institution which under the exemption law was relieved of the tax burden. But this sum does not include the amount which the people have been compelled to pay in taxes, as a result of the institution's exemption. Is this equitable? Is it just? Is it not rather an example of special privilege?

Abuses of the privilege of exemption are numerous. I have in mind another so-called charitable institution which several years ago bought at a low figure an extensive tract of vacant land on the edge of a growing city. Buildings were erected on a small portion of this tract, the balance being held free from taxation, on the assumption that it would ultimately be used for institutional purposes. It remained vacant until the extending city surrounded it with factories and homes. Then its promoters seized the opportunity, had it surveyed into city lots and put them upon the market at a price above \$100 a front foot. These are not isolated cases. They have their counterpart in every city in the State. Is there any member of this Convention who believes that such speculation would have been sanctioned by the framers of the original exemption law?

Cemetery associations? Yes, their property is exempt from taxation, though in many cases cemetery associations are formed

for purely speculative purposes. I may cite a case where five men organized such an association, paying \$200 an acre for the site and selling the burial plots at \$1 a square foot. After a few years seventy acres, an adjoining farm, was added to the holdings of the association. On this new property a single burial was made and the entire tract was entered in the exempt list. Since that time it has not been found necessary to use the new property for burial purposes, but it has returned its owners substantial profits as an agricultural proposition.

Colleges and universities are revenue producing. How many of the taxpayers who aid in their maintenance by assuming the tax burden that they should carry, have been financially able to give their sons the benefit of these educational institutions? Only a small percentage, surely. Why should they be in the exempt class? They are the constant beneficiaries in large amounts from admiring and philanthropic patrons. Where is the logic of releasing them from the duty of aiding in the support of government? It was argued before the Taxation Committee by the Vice-President of this Convention, that while the institution over which he presides owns much property which the people of Ithaca with some reason believe should pay a portion of the tax, an offset is found in the fact that the presence of the University has brought the city into prominence and increased the value of other real estate within the corporate limits. All of which is of course true, but illogical as argument for the retention of tax exemptions. Other cities have been built by the location of institutions, industrial rather than educational, which have not been exempt from taxation because of their influence on the city's growth. Just over the city line of Buffalo, an enormous steel plant, which in its activity employs over 6,000 men, has been the one principal factor in building up a separate city of substantial size, but there has never been any idea, on the part of the promoters of the enterprise, or the assessors of Lackawanna City, of putting the valuable property of the Lackawanna Steel Company in the exempt tax list. But the location of that steel plant did give a certain "moral and mental improvement" institution an opportunity to sell at a substantial profit, a tract of land it had been holding for several years free from taxation. It is now in the possession of the home-owners and of course there is no exemption for them.

That is an unjust law which discriminates against one class for the benefit of another class. No more flagrant example of such unjust discrimination has ever been presented than that of tax exemptions.

Laws which made it possible were class legislation of the most dangerous character. The elasticity of the tax law permits the

stretching of exemption to an extent which may well be regarded with grave apprehension. How elastic is the exemption clause? Let us see. We find this sentence in section seven of article one of the tax law: "Property held by any officer of a religious denomination shall be entitled to the same exemptions, subject to the same conditions and exceptions, as property held by a religious corporation." There is practically no limit to the amount of property a church officer may hold free from taxation, provided the earnings from that property are applied to church benefits. Unrestrained by constitutional provision, the Legislature has broadened the scope of the exemption clause until, quoting from the same section we find that: "The real property of a corporation or association organized exclusively for the moral or mental improvement of men or women, or for religious, bible, tract, charitable, benevolent, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more such purposes, and the personal property, of such corporations, shall be exempt from taxation."

Is not that sufficiently elastic to meet practically every condition? Now, laying aside entirely the question of equality and justice, personal pride and patriotism should prompt refusal on the part of many institutions, especially churches and fraternal organizations, to accept immunity from the tax burden. All these institutions profess the greatest loyalty to country, and yet they appear to overlook the fact that the truest loyalty, the purest patriotism, rests in generous support of the government. Our institutions that can afford to own property worth thousands, even millions of dollars, can well afford to contribute to the support of the government which protects it and makes its existence possible.

I have spoken of fraternal organizations and societies which take advantage of the law's elasticity to creep under its shelter for the purpose of enjoying immunity from taxation. Can you conceive of an organization, made up of our most representative and wealthy citizens, taking advantages of opportunity granted by too lax laws, to shift a portion of their legitimate tax burden to the shoulders of others? But right here in Albany, under a special construction of its charter, the Benevolent and Protective Order of Elks is exempt to the amount of \$175,000, which must be made up by others, including the widow and the small home owner. Consistency is a jewel. Where is the benevolence or the protection of an act which shifts the burden of taxation to shoulders far less able to sustain it? For fear that it might be thought that I have singled out one particular fraternity as an example I will say I have the privilege and the honor to belong to the oldest and

greatest fraternal organization in the world. But I repudiate the idea that the officers of that organization should take advantage of the exemption clause of the tax law. Fraternity is a luxury and should pay duty. I much prefer to pay my share of the amount necessary to care for the indigent members of our order if there be such, than to pose as a patriot and shirk my duty as a loyal citizen. I can say to the credit of the chief executive officer of that association in this State, that he has expressed to me his approval of the idea of the abolition of all tax exemptions. I may add that my respect and esteem for Judge Freifelt was not lessened by that admission.

Conviction is coming to the church people that their long-established attitude toward taxation is inconsistent, unchristian and unjust. Some of the churches are declining to take advantage of the exemption law, and are paying their assessment as every property-owning corporation should. It is a worthy example, and should have its effect. But selfishness is their rule, and until wise and consistent law-makers put the seal of their disapproval upon this most unequal and dangerous class legislation and privilege the great evil will continue to grow.

Members of the Committee on Taxation, and other delegates, including its Chairman, have expressed to me the conviction that conditions warrant the abolition of practically all the present exemptions, and that they personally favor such action, but are prevented from taking a decided stand for the adoption of such an amendment by the belief that the people are not yet ready to accept such revolutionary legislation. They are right when they characterize it as revolutionary. But what really great reforms have come except through revolutionary action? But I believe they have a misconception of true sentiment when they say that the people are not yet ready to approve such an amendment as this I present, at the polls. At least they should have an opportunity, and this is what my large number of correspondents have urged, a chance to express their opinion on this subject with the ballot. Ask the people you meet on the street what they think of the abolition of tax exemptions, and the great majority will tell you they favor it.

A word regarding the moral effect of tax exemptions. I believe that were all institutions taxed, the result would be a more economical administration of the institutions themselves and less careless expenditure of the public funds. Free from the burden of taxation, the managements of the numerous institutions of the State are less observant of the financial policy of the lawmakers and public officials. Themselves unaffected by the extravagance of administrations, they enter no protest against the reckless dissipation of public moneys contributed by the less favored classes. Exemptions are, therefore, an encouragement to extravagance, to



